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SPEECHES

OF THE

MANAGERS AND COUNSEL

IN THE

TRIAL OF WARREN HASTINGS.

EDITED BY

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VOL. IV.

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CONCLUSION OF SUMMARY

OF

PROCEEDINGS ON THE TRIAL.

By the terms of the vote of the House of Peers, previous to the prorogation in 1793, the resumption of proceedings on the trial had been fixed for the second Tuesday in the following session. The Parliament assembled on the 21st of January, 1794; and, on the 23d of the month, the House of Lords, on the motion of the Duke of Norfolk, postponed the reopening of the Court to Thursday, the 13th of February. On the Tuesday before the day thus appointed, Mr. Wigley moved, in the House of Commons, that a message be sent to the Lords representing the wish of the Commons to proceed upon the trial from day to day, which was agreed to without a division. Mr. Jekyl seized the opportunity given by a motion on the subject of the impeachment to reflect on the unexampled tediousness of the proceedings, and to stigmatise the protraction of the trial as a serious violation of the liberties of the people. He was checked in further observations of the same character by being called to order by the Speaker.

1794

Assembling of Parliament.

Desire of the Commons to proceed with the trial from day to day.

Observations of Mr. Jekyl.

The Lords having assembled in Westminster Hall, on the 13th of February, the 118th day of the trial, Mr. Law made a request to the Court that, although

Resumption of the trial.

1794. Mr. Hastings had closed his defence, he might be allowed to put a few questions to the Marquess Cornwallis, late Governor General of India, who had lately arrived in England from his government. This was not objected to by the Managers; but they took the opportunity of pointing out that Mr. Larkins, intimately connected, as the Company's Accountant General, with matters of the revenue, during Mr. Hastings' administration, was also recently returned from India, and that they might probably desire to examine him on several points of the evidence.

Request of the Defendant to summon the Marquess Cornwallis.

Desire of the Managers to examine Mr. Larkins.

Adjournment on account of the Marquess Cornwallis' illness.

On account of Lord Cornwallis' illness, the trial was adjourned to the 19th, and from that day to the 25th of the month; on which day, the Lord Chancellor informed the Managers that, as the Marquess' indisposition still prevented him from attending, the Defendant had signified his readiness to renounce the benefit of his evidence, and to enter at once on the business of the trial. Mr. Grey, on the part of the Managers, consented to the examination of Lord Cornwallis by the Defendant, whenever he might be well enough to attend, and again took the opportunity to remark on the disinclination of Mr. Hastings to summon Mr. Larkins as a witness, and intimated the intention of the Managers to call him on the part of the prosecution. Mr. Law protested that Mr. Hastings was not accountable to the Managers for his motives in forbearing to call any particular witness; and, after a few observations from Mr. Burke, the Managers proceeded to put in counter evidence to that of the Defendant on the Benares Charge.

Disinclination of Defendant to call Mr. Larkins.

Counter evidence on the Benares Charge.

Evidence to disprove the concurrence of the Council in the exactions on Cheyt Sing.

Almost the first point aimed at by the Managers, was to disprove the statement of the Counsel, that the exactions on Cheyt Sing had been concurred in by Mr. Hastings' colleagues. The first paper produced by them with this view was objected against by the Counsel, on the ground that

the concurrence of the different members of the Council of Calcutta in Mr. Hastings' measures had only been argued in their speeches, but had not been brought forward in their evidence. The Lord Chancellor's opinion, however, was in favour of its admission, as being part of a consultation already received, and explanatory of other written evidence. The Managers, therefore, following up their success, proceeded to call Mr. Francis, in order to examine him on the degree of assent given by him to the demands on Cheyt Sing. But Mr. Law at once interposed, with the objection that, if the examination of Mr. Francis were allowable at all, it should have taken place at an earlier stage of the proceedings, when the evidence for the prosecution was being brought forward; but that, if he were now summoned "for the purpose of repelling any arguments or inferences that were drawn by the Counsel, he is called for a purpose for which his testimony is not by law competent." He subsequently added the objection, that the parole evidence of Mr. Francis could not be admitted to contradict the written minute given in evidence. The discussion which ensued, and in which Mr. Grey and Mr. Fox were the leading speakers, on the part of the Managers, consumed the remainder of the day's sitting; and eventually the Lords adjourned to their chamber of Parliament, in order to consider the question proposed,—whether it was competent for the Managers to examine Mr. Francis respecting the debate held by the Council of Calcutta, on the 9th of July, 1778, previous to the written minutes that appear upon the consultation of that date? On the motion of Lord Thurlow, a question was proposed to the Judges, for their opinion on the admissibility of the evidence offered by the Managers.

1794.

Objection to evidence by Defendant's Counsel.

Summons of Mr. Francis

His examination objected to by Defendant's Counsel.

Question referred to the Judges.

On the 27th of February, the result of the consideration given to the proposed question by the Peers, assisted by the

1794.

Examination of Mr. Francis not allowed.

opinion of the Judges, was delivered by the Lord Chancellor. Their Lordships had decided that it was not competent to the Managers to examine Mr. Francis on the subject of the debate.

Remonstrance of Mr. Burke and Mr. Fox.

This adverse judgment of their Lordships, delivered without explanation of the grounds on which it was founded, drew from Mr. Burke a very indignant remonstrance. He first made the technical objection to it, that, as the Managers had been allowed to put the question to Mr. Francis whether he had been present at the debate referred to, it was, "likewise, inclusively competent to them to demand an account of what that debate "was. Otherwise, to give the first is nugatory; and, in "our view of it—if your Lordships had not otherwise "decided—it would be downright fraud and cheat." He then complained that no explanation had been given of the ground of their decision—no information either of the state of the case proposed to the Judges, or the case stated for their own discussion; and, though called to order by the Earl of Radnor, proceeded to justify his view of the law by reference to the proceedings in the trial of Lord Mohun. Mr. Fox followed Mr. Burke in insisting on the right of the Managers to be made acquainted with the ground of their Lordships' judgment.

Answer of the Lord Chancellor.

The Lord Chancellor reminded the Managers that the rule of proceeding, applied to the present case, had been fully considered and determined on at an earlier period of the trial, and had been all along consistently adopted and acted on. But Mr. Burke, admitting the precedent, as far as the present trial was concerned, again argued against its equity, and protested against it as a departure from the course followed on similar occasions, in former impeachments.

The discussion objected

Earl Stanhope objected to the continuation of the discus-

sion, as irregular; and, in reference to the complaint of the Managers that they were left in the dark as to the principle which had guided the Lords in their decision, stated that the House was not bound to give reasons for its judgments, but that, for himself, he was willing to let it be known that he had decided mainly on the principle "that no "parole evidence should be adduced to explain written "evidence." 1794. to by Earl Stanhope.

Lord Carnarvon reminded the Managers that they were out of order in commenting on a decision already given by the Court; and suggested that they would obtain the opportunity of discussing the matter in the regular course by continuing the examination of the witness. Whereupon, Mr. Grey put the following question to Mr. Francis:—"Whether, between the time of the original demand on Cheyt Sing and the period of your leaving Bengal, it was at any time in your power to have reversed or put a stop to the demand on Cheyt Sing?" Mr. Law objected to the question, on the ground that the Defendant had produced no evidence on the subject it referred to. He declined to add to a delay already intolerable by further agitating a question he had recently discussed. Observations by Lord Carnarvon. Question put to Mr. Francis. Objected to by Mr. Law.

Mr. Burke quoted precedents in support of the right of the Managers to produce new evidence in opposition to that for the Defence. He spoke on the question for more than an hour, particularly insisting on the principle that impeachments were governed by laws of their own, and were not to be fettered by common law rules. Mr. Fox also spoke at length, dwelling on the duty of the Lords to free themselves from technicalities, and insisting on the principle that the publicity of the decisions of the Judges was that which made men respect them; whereas, private decisions were a disgrace to the character of the Judges. Reply of Mr. Burke and Mr. Fox.

Further time was consumed in discussing the form of the

1794. question proposed for their Lordships' decision; and, when the terms were arranged and the Peers were about to adjourn to their chamber, Mr. Hastings rose and addressed the Court, as follows:—

Address of Mr. Hastings.

"Before your Lordships adjourn to your chamber in Parliament, I humbly entreat that you will allow me to address a few words to you. My Lords, this was not my original intention, till a very short time before I came down to this place; but I was alarmed with many suggestions that were made to me, and I thought it absolutely necessary. What I have heard to-day renders it more necessary for me to say to your Lordships what I wish to say. I have hastily put down my thoughts in a few loose sheets, almost too incorrect to be read to your Lordships, but I had not time to do it better. Something, too, I have added here. May I have permission to read these minutes?"

Several Lords.—"Hear, hear."

Mr. Hastings.—"In the petition which a noble Lord * had the goodness to present to your Lordships for me on Tuesday last, I informed your Lordships that I should forego the benefit which I had hoped to derive from the testimony of the noble Marquess Cornwallis, whose ill state of health might possibly disable him from attending to deliver it, without the loss of so much time as might involve me in the peril of losing this session, and seeing my trial adjourned over to another year; and I prayed your Lordships, therefore, to order that the trial should proceed, and that it should proceed with that degree of acceleration and dispatch which a due regard to the general rights of justice and the sufferings of an individual now in the seventh year of his trial might induce your Lordships to adopt. The immediate cause of my troubling your Lordships with that address, was a report conveyed to me that your Lordships had been pleased, in consideration of the noble Marquess' illness, to adjourn the trial, which stood for Monday last, to the Tuesday following, for the purpose of allowing me to make my option in the mean time, and to signify it to your Lordships, either that the proceedings on the trial should be stopped until the noble Marquess' health should be sufficiently restored to enable him to attend in his place, or that it should proceed without it.

"If this information had been given me on grounds of authority, I should not trouble your Lordships at this time, but rely with implicit and most assured confidence on such a pledge as it would be criminal to distrust, since it would be impossible to admit, for an instant, the supposition, that your Lordships would offer me an alternative which included so great a sacrifice, without a most absolute determination to fulfil the condition of it. But I neither know the terms on which that

* Lord Hawkesbury.

declaration of your Lordships was made, nor with certainty do I know whether it was made at all; and, when I see the time so very near in which it has been annually customary for your Lordships to adjourn the trial for many weeks, to allow for the absence of the Judges on the circuit, I cannot but feel the greatest alarm lest the same obstruction should be given to this trial, in this period of it, when the evidence on the part of the prosecution and defence have been finally and declaredly closed, and almost a whole year elapsed since the close of the latter. 1794.

"I need not remind your Lordships of the sacrifice I made to cut off all possible delay, that I omitted evidence on two charges, and gave up the pleadings of my able advocates on both. This year, it is known to your Lordships with what earnestness and anxiety my Counsel solicited your Lordships for permission to call Marquess Cornwallis as an evidence, and that I have departed from the whole tenor of my conduct throughout this trial by being the mover myself of these delays of my cause to attain it, and I thank your Lordships for acceding to it.

"My appeal to that noble witness was not made on slight grounds. When I first notified to him my intention of calling for his evidence, I had never had any communication with his Lordship respecting the subject, but I knew what was the truth, and I was confident that he would declare it. I knew his heart and mind; I knew myself; and therefore I knew with the most absolute certainty what his testimony would be. Yet I have made this great sacrifice, added to the past; and surely, my Lords, I am not unreasonable in exacting this only, as a requital, that my trial may suffer no further delay. I do, therefore, most earnestly supplicate your Lordships to grant me the indulgence of a continuation of your proceedings in this Court without any adjournment for the circuits, or any other delay, except the other business of Parliament should render it unavoidable; and that you will afford me such an assurance of it as shall quiet my mind from [its present]* apprehensions.

"[My Lords, do not think this request presumptuous, nor that it proceeds from an impertinent curiosity.]* There are other more urgent motives; and pardon me if once more I repeat, as my plea for making it, that I am now in the seventh year of my prosecution [in this Court],* which has never before suffered any trial, [even of the most criminal nature, except in the times of originating disorder and rebellion],* to exceed a period of twenty-two days; that, as I have already been subjected to a prosecution which has now endured past six years, I may yet, if I may trust to my understanding of all that I have heard this day and the past, be the continued subject of it during six more years, if I live so long."

Answer of Mr. Burke.

Mr. Burke observed that the delay the cause had recently

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* "History of the Trial."

1794. experienced was occasioned by Mr. Hastings' application for permission to have the Marquess Cornwallis' evidence. He further remarked that Mr. Hastings had made similar complaints of delay from the beginning of the trial.

Reply of Mr. Hastings.

Mr. Hastings replied in these words: "Five years ago, I did complain of the length of this trial;* for it was then without precedent that a criminal trial should endure so long. And, if I have complained every year, has not every year been the cause of it? I do complain of it; and I say that, from whomsoever it proceeds, it is an abuse of justice. If I have undergone a prosecution of six years, is that an argument why I must endure it six years longer?"

After a few words from Mr. Fox, who concurred with Mr. Hastings in the request to the Lords that the trial might be proceeded in with as much expedition as their Lordships' important avocations might admit, the Lords adjourned to their chamber.

Proposed question to Mr. Francis not allowed by the Lords.

On the reassembling of the Court, on the 1st of March, the 121st day of the trial, the Lord Chancellor announced the decision of the Lords, assisted by the opinion of the Judges,—that it was not competent for the Managers to put the proposed question to Mr. Francis.

Production of evidence by Managers.

The next evidence offered by the Managers was a letter signed by Mr. Hastings, Mr. Barwell, Mr. Wheler and Mr. Francis, but which the Counsel had argued from as not signed by Mr. Barwell. Mr. Law waived any objection to the admission of the paper, admitting he had been misled by a duplicate of the letter, to which Mr. Barwell's signature was wanting. The Court refused to allow a discussion, raised by the Managers, on their right to the admission of the paper, irrespective of the Counsel's assent.

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* Mr. Hastings refers to his petition to the House of Lords, presented on the 3d of February, 1789, and which is noticed in the present "Summary of Proceedings;" Vol. ii., p. xv.

1794.

The reading of this paper was followed by a discussion on the admissibility of a letter from Mr. Eaton to Mr. Fowke, printed in the Appendix to the Benares Narrative; but on this the Managers gave way, on the recommendation of the Lord Chancellor. Other discussions followed on the admission of a report by Mr. Duncan to Lord Cornwallis on the state of Benares, in 1788. This was eventually conceded to the Managers, and long extracts were read from the report, occupying the attention of the Court for the space of two hours.

Discussion on admission in evidence of a pamphlet of the court of Directors on Mr. Hastings' treatment of Cheyt Sing.

After the reading of another paper by the Managers, Mr. Grey proposed to read what he designated a pamphlet, written and published by the authority of the court of Directors, and containing their opinion upon Mr. Hastings' proceedings with regard to Cheyt Sing. Mr. Law objected that the publication in question had the sanction of a certain number only of the Directors, and that it was a party pamphlet, written at a time when there was a contest between the Company and other persons who were bringing the affair before the Parliament; adding, that "any publication of the sort, not in the course of duty, is a libel—an actionable libel." Minutes of the court of Directors were read, to show that the paper in question was the authorised production of the Board; but Mr. Law still insisted that the publication of such a paper was libellous. Mr. Burke was proceeding to observe on "the prostituted audacity of the criminal at the bar," in writing an insolent letter to the Directors, but was interrupted by the Marquess Townshend. A prolonged discussion ensued on the character of the paper in question, and the proofs of its being an authorised publication of the Directors. Mr. Law maintained that the paper professed to be written for the justification of the Directors, and was not communicated

1794. to Mr. Hastings. Mr. Burke, in answer, stated, he was ready to prove, if it were necessary, another communication of their disapprobation from the Directors to Mr. Hastings. Mr. Hastings interposed, and spoke as follows:—

Interruption by Mr. Hastings.

"My Lords, I beg that I may be allowed to speak one word. I will venture to say that there is no one instance, besides this, in the whole service of the Company, of the court of Directors publishing any strictures upon the conduct of their servants, which they did not communicate to their servants. If I had committed any offences which the court of Directors thought deserved their reprehension, I was the person that should have known it, not the public. If it was for their own justification, they are parties, and what they say cannot reach me. There are many instances in which the court of Directors, in the course of my service, did find fault with me; but, upon the close of my service, they gave one sanction to all that I had done, and that, I should suppose, obliterated all their former censures, so far as they respected my general conduct. Of this I was never apprised; and I believe it is the only instance of the court of Directors ever ordering such a paper to be laid before the public."

Mr. Burke replied that it was the sentiments of the Directors, as contained in the paper, and not the publication of them, with which they were concerned; and retorted on Mr. Hastings that he had published at Calcutta a libel upon the court of Directors, relative to their judgment upon him, given regularly in their court, without previous communication to them of the subject of that libel. Mr. Hastings answered:—"I beg leave most solemnly to deny it, and to affirm that that declaration is a libel, and is of a piece with all the declarations I have heard from this authorised and licensed"—adding, after a pause, and looking at Mr. Burke—"Manager." Mr. Burke reasserted that Mr. Hastings had published at Calcutta an unauthorised paper, censuring the court of Directors for their reflections on his conduct. To this Mr. Hastings replied:—"I published a narrative. I published no letter to the court of Directors.

I knew my duty too well, and I owed them too much respect." 1794.

Further conversation ensued respecting the description of the paper which it was the object of the Managers to put in evidence; and, before the adjournment of the Lords to deliberate on their decision, Mr. Hastings again addressed them as follows:—

Address of Mr. Hastings.

"It is with great reluctance I trouble your Lordships, and I have only two words to say. I have prayed your Lordships that there may be no further delay in this trial. I have perhaps presumptuously prayed your Lordships to afford me some assurance that this cause shall go on without any further interruption. This is the first of March, and it has been rare that your Lordships have sat after this date; but you have adjourned five or six weeks, to let the Judges go their circuit. I beseech your Lordships not to let me suffer the torment of so long delay again. I am totally worn out. I can bear it no longer."

Observation by Mr. Burke on a Petition of Mr. Hastings.

Mr. Burke remarked that the Managers were quite prepared to discuss the causes of the delay complained of by Mr. Hastings, and intimated that he expected to be allowed to submit evidence in reference to the statements contained in a petition of Mr. Hastings recently presented to their Lordships.*

The Court reassembled on the 7th of April, after the

* The Petition referred to was presented on the part of Mr. Hastings to the House of Lords on the 25th of February. It was in the following terms :— "That the trial of the Petitioner having been, by the indulgence of their Lordships, already in two instances adjourned, for the purpose of enabling the Petitioner to avail himself of the evidence of the Most Noble Marquis Cornwallis, at such time as the restoration of his Lordship's health might permit his Lordship with safety and convenience to attend the trial of the Petitioner, the Petitioner has lately learnt, with the deepest concern, that the present state of his Lordship's health affords no reasonable prospect of his early attendance in their Lordships' House. The Petitioner, therefore, feels himself reduced to the painful alternative of foregoing altogether the advantage he had assured himself his cause and character would have derived from an appeal to his Lordship's testimony, or of postponing the continuance of this long depending trial, at a time when every moment is of the most pressing importance, to a

1794. usual adjournment during the absence of the Judges on circuit, when the Lord Chancellor announced, "that it is not competent for the Managers for the Commons to give in evidence the paper read in the court of Directors on the 4th of November 1783, and then referred by them to the consideration of the Committee of the whole Court, and again read in the court of Directors on the 19th of November 1783, and amended and ordered by them to be published for the information of the proprietors." Mr. Burke stated that the clear expression of their Lordships' opinion of the inadmissibility of the paper referred to would deter him from offering other evidence, with which he was prepared, on the same matter, and that the evidence in reply on the first Charge was now complete.

Mr. Plumer informed the Court that the Marquess Cornwallis was so far restored to health as to be able to give evidence in person, and obtained the consent of the Managers to examine his Lordship on the next day's sitting.

Evidence by Managers on the second Charge.

Mr. Sheridan then proceeded to give in evidence in reply on the second Charge, relating to the Begums of Oude. Numerous papers were read, in most instances the continuations of documents already partially quoted by the Counsel; and, although frequent discussions arose between Mr. Sheridan and Mr. Plumer, the course of the proceedings during the day was not materially interrupted.

Examination of the Marquess Cornwallis.

On the 9th of April, the 123d day of the trial, the Hall

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further and indefinite period. Under these circumstances, therefore, and in humble confidence that the evidence already laid before their Lordships is fully sufficient for every necessary purpose of exculpation and defence, he begs leave, however reluctantly, to waive the benefit of this additional testimony; and to request that the trial may proceed with that degree of acceleration and dispatch which a due regard to the general rights of justice and the sufferings of an individual, now in the seventh year of his trial, will undoubtedly induce their Lordships to adopt."—Printed in the "Journals of the House of Lords."

presented a fuller attendance of both Peers and spectators than on any previous day of the last three years, in expectation of the examination of the Marquess Cornwallis.* His Lordship was sworn in his place, and was examined by the Counsel, principally to prove the prosperous state of the British provinces in India, and the favourable opinion of Mr. Hastings entertained by the natives. The noble Marquess was cross-examined by Mr. Burke, with the view to show that he had elsewhere, especially in his written despatches, represented the country in a state of depression and impoverishment, on his accession to the Government. He was also questioned by Earl Stanhope and Lord Hawke respecting the character of the coalition of the native powers against the British Government, during Mr. Hastings' administration, and the unusual exertions it necessitated on his part, to contend against it. 1794.

Examination of Mr. Larkins.

On the conclusion of the Marquess' examination, Mr. Larkins, the Accountant General in Bengal during the period of Mr. Hastings' administration, was called by the Managers, and examined by Mr. Burke, chiefly with respect to Mr. Hastings' private accounts, of which he had had the superintendence. Mr. Burke was proceeding with questions to elicit from what books Mr. Larkins had taken the entries of the several sums of money mentioned in his letter to the Chairman of the Company, in 1786, respecting receipts by Mr. Hastings, when he was interrupted by Mr. Plumer, who objected to his going into evidence, at this stage of the proceedings, which ought to have been produced in support of the prosecution at an earlier period.

Questions objected to by Defendant's Counsel.

The remainder of the sitting was consumed in the discussion arising from this opposition of the Counsel to Mr. Larkins' examination; Mr. Plumer and Mr. Dallas, on the

* "History of the Trial;" Part vi., p. 94.

1794. part of the Counsel, and Mr. Burke and Mr. Fox, on the part of the Managers, being the principal speakers. It was argued by Mr. Burke, that the circumstance of Mr. Larkins' absence in India having prevented the Managers from producing him in Court at the proper period, they ought to be allowed the liberty of examining him now that he was returned. "There is no rule of evidence that must not yield to the strong necessity of human affairs. If we had had this witness here in England, and had by fraud kept him back from your Lordships, I should think you ought to have rejected for ever all offers on our part [to produce him now]; but your Lordships know that neither you nor we can pump dry the ocean that is between India and this country—that we cannot call evidence here at our pleasure." It was answered by Mr. Dallas that the difficulty complained of by Mr. Burke had been provided against by a special Act of the Legislature, which had given power, under circumstances like the present, to take evidence by a special commission sent out to India. The view taken by the Managers was very forcibly stated by Mr. Burke in reply. He said:—

"If the prisoner at the bar had had, or himself shown, the smallest compassion to man or woman, I should, in truth, compassionate the miserable and contemptible figure he makes before your Lordships this day. He, my Lords, rests his sole proof of innocence upon the confidence that he had in this gentleman who is now at your bar, and then this is to cover a transaction of theft, peculation, bribery, and everything that is mean, base and corrupt, that can enter into the mind of man; and, when it is his interest and his pretended wish to come forward to clear himself, by every means, before your Lordships, of those foul imputed crimes, and that person comes, in whom he placed his confidence, —and relied upon that confidence as a presumption of his innocence—he abandons that innocence completely: he suffers all these calumnies under which he sees he is sunk, and has been sunk for years; he suffers his Counsel to get up, and not to put up his innocence as a screen or as a shield, but to pick up some technical rule, by which they mean to save him . . . . 'I have constantly contended,' says he, 'that my confidence in Mr. Larkins was a proof of my innocence.' 'Well, here is Mr. Larkins.

Defend yourself. Examine Mr. Larkins, sift him to the bottom: produce everything that may make your innocence appear.'—'No; I won't.' 'Why?'—'Oh, there may be doubts—suspicions.' . . . I have only to say, after remarking upon the practice, that it would have sunk him in any court in the world. He complains that winds and seas were between them: then, when Mr. Larkins comes to England, he says, 'I will not hear him. There is a rule by which I may screen and cover the guilty peculations I have been guilty of; I will not suffer my confidant to be examined.'" 1794.

After further discussion, the Lords adjourned to their own chamber for the purpose of deliberation.

Decision of the Court against the Managers.

On the 14th of April, the 124th day of the trial, it was declared by the Lord Chancellor that it was not competent for the Managers to put the question proposed to Mr. Larkins.

Resumption of examination of Mr. Larkins, and objection by Defendant's Counsel.

Mr. Burke immediately proceeded to resume his examination of the same witness, but was soon interrupted by Mr. Plumer, who pointed out that the questions put were open to the same objections as were made to his previous examination. He added, however, that "so much has been said—so often repeated and so industriously circulated—respecting Mr. Larkins' testimony, if it were adduced, and the motives operating upon Mr. Hastings for resisting it, that any longer to forbear bringing these bold assertions to that test which has hitherto been fatal to all the accusations against Mr. Hastings, namely, the test of proof, might, perhaps, seem to justify the insinuations cast against Mr. Hastings, of shrinking from the inquiry, and dreading the result of it," and that he therefore withdrew his opposition to the examination of the witness. The Lord Chancellor pointed out that, as an objection had been previously made to the proposed question, it was necessary that the present express consent of the Counsel should be entered in the proceedings at length. Mr. Burke immediately insisted that a positive assertion of the right of the Commons, and their protest against the exercise of it being considered an indulgence, should also be entered; and further

1794. demanded that reference should be made to a precedent of an order of the House, on the 10th of April, 1641. A long conversation ensued; Lord Mansfield stating that the reference to the precedent could not be entered without a hearing having been given to the objections of the Counsel, and a debate by the Lords in their chamber. A simple protest of the right of the Commons was eventually agreed to.

Examination of Mr. Larkins.

Mr. Larkins was then questioned by Mr. Burke on a variety of points; particularly respecting sums of money alleged to have been received by Mr. Hastings, and the indorsement of the bonds, in 1782. Before the adjournment of the Court, Mr. Hastings made the following short address:—

Address of Mr. Hastings.

"I rise to request your Lordships would indulge me but one moment. My Lords, I have been alarmed with informations which it may not be very material for your Lordships to be acquainted with, but which press with a great weight upon my mind, and compel me to repeat the request which I have already twice made to your Lordships, and do most earnestly make. Indeed, what has passed this day makes it still more necessary that I should address your Lordships upon the subject. All that I have to ask is—and most earnestly and most importunately I do supplicate your Lordships—that you will resolve to finish this eternal trial this session; that you will come to judgment this session; and that, by whatever means your wisdom may devise, I may receive some assurance of it. My Lords, twice I have made this request. I now repeat it. It is not from an idle curiosity, but it is to guide myself in some resolutions that I, perhaps, may be obliged to form, and which it is impossible that I should make, when the event shall have already passed which I wish to deprecate."

Observations by Mr. Burke on evidence of Mr. Larkins.

On the 16th of April, the 125th day of the trial, Mr. Burke addressed to the Court some observations on the preceding evidence of Mr. Larkins, and the points he proposed to investigate in his future examination. He was interrupted by Mr. Law, who objected to the address as irregular; but it was pronounced by the Lord Chancellor to be entirely in order.

Further examination of Mr. Larkins.

The further examination of Mr. Larkins was proceeded with, almost uninterruptedly, until, on an objection being

made by Mr. Law to a form of question put to the witness, Mr. Burke reflected on the unwillingness exhibited by the Defendant and his Counsel to have certain questions put. This drew from Mr. Law a protest against any imputation of his being moved to interfere in what he considered an illegal mode of examination by an apprehension on Mr. Hastings' account. What he aimed at was to prevent an unfair protraction of proceedings, at an already advanced period of the session. After an explanation by Mr. Burke of the motive of the question objected to, Mr. Hastings rose, and made the following appeal to the Court:— 1794.

Objection by Counsel.

"My Lords, I pray I may be heard a few words. If the requests I am about to make to your Lordships are granted, I am sure, and will answer for my Counsel, that they will object to no questions that shall be put. Their apprehension is, and my apprehension is, only, lest there should be further delays in this trial. My Lords, I beg leave to call to your recollection that, in the year 1791, when the prosecution was closed, I told your Lordships that, for the sake of acceleration, and because I could not bear the idea of being for ever under trial, I would waive my defence, if your Lordships would then go to judgment. Long before the close of the last year, when I saw that there was a probability that time would not be left sufficient for the Managers to make their reply, I then waived a great deal of the evidence for my defence upon the two last Articles. I waived the opening and application of the two last Articles, at least the application of the first, and the opening and application of the last, of my Counsel, for the sake of leaving sufficient time for the Managers to reply and for your Lordships to proceed to judgment. My concession was received, but I did not derive any benefit from it; the trial was adjourned over to this year. In this year, when my Lord Cornwallis arrived, I consented myself, nay, I applied for delay, for the purpose of receiving his testimony, but I was told that his Lordship's state of health was so bad, that it was not possible for him to attend before your Lordships were to adjourn, that the judges might go upon their circuits. Even then, material as I thought the evidence of the noble Marquess, I consented to forego it. All these sacrifices I made for the sake of acceleration, and it has been told me that I was afraid of the examination of this witness, Mr. Larkins, because his examination was to draw down upon me crimes, I think the expression was, so great, that I should call upon mountains to hide me.

Address of Mr. Hastings.

"My Lords, after having made such sacrifices for the sake of acceleration, and to get rid of this trial, was it to be expected that, for the

1794. accommodation of my accusers, I should call this witness? No, my Lords, it was because I feared delays, which have happened and still portend, that I objected to it; and, so far from ordering my Counsel,—which was a term made use of, and which I felt exceedingly,—when your Lordships gave me Counsel for my defence, I trusted implicitly to their management of my cause, and have had no reason to repent of the confidence reposed in them. I never directed them; they judged and decided for me; but my own consent and inclination went with them. When I heard the insinuations thrown out against me, one of my learned friends here will bear me witness that, at that time, I did express an impatience to him that he would give it up; he made me forego it; and I sat down with patience.

"I have consented that Mr. Larkins may be examined; and now I only pray that his examination may be concluded. I most earnestly entreat and implore your Lordships, for that purpose, that you will be so good as to allow me one day more, or, if it can be, a few hours only of one day, for the purpose of concluding the examination of this witness, before the adjournment for the Easter holidays, which are now very fast approaching. Your Lordships will have the goodness to recollect, I am sure, the circumstances under which, and the declared hope and intention with which, this examination was consented to on my part; and I hope your Lordships will consider how precious and how valuable every moment of my time must be, at this period of the trial, when I have been now so many years—nine years almost—under accusation, and seven complete years under trial; and I hope that your Lordships will have the goodness to forgive me the length of this address, and that it will not have been made ineffectually."

Examination of Mr. Larkins.

Mr. Burke continued and completed his examination of Mr. Larkins; and the Court was adjourned during the cross-examination on the part of the Defendant, by Mr. Dallas, which ensued.

Report on the causes of delay in the trial.

On the 17th of April, in the House of Commons, Mr. Burke brought up the Report of the Committee appointed to inquire into the causes of the delay in the trial. The Report was read and ordered to lie on the table. Mr. Burke then moved that it be printed for the use of the Commons, which was agreed to, after a warm opposition from Sir Pepper Arden and others.

Cross-examination of Mr. Larkins.

On the 28th of April, the 126th day of the trial, Mr. Dallas proceeded with his cross-examination of Mr. Larkins,

and was followed by Mr. Burke, who took up the cross-examination on the part of the Managers, and continued it for the space of two hours and a half. 1794.

The following day, the 127th of the trial, was entirely occupied by a discussion on the admissibility as evidence of pleas put in by Mr. Hastings, in February and March 1793, in answer to a bill in Chancery filed by Raja Nobkissin, for the recovery from Mr. Hastings of three lacs of rupees, which he had borrowed of him, which the Raja had subsequently given to Mr. Hastings, and which had been presented by Mr. Hastings to the Company. Discussion on evidence.

On the Managers' return to the House of Commons, Mr. Burke moved that the Report upon the causes of the delay in the trial, which had been presented by the Managers, might be recommitted, as certain inaccuracies had been discovered in it during the recent recess. The motion was carried, on a division, by fifty-two votes against twenty. Recommittal of the report on the causes of delay in the trial.

On the following day, the 30th of April, Earl Stanhope, in the House of Lords, reflected on certain expressions used by Mr. Burke, in the course of the discussions in Westminster Hall the day before, to the effect that "an arm of the Ganges had run into the Thames, and that it had poisoned its source; and that the course of justice could not be pure, where the *ipse dixit* of a judge was to prevail;" and moved that Messrs. Blanchard and Gurney, short-hand writers, should be summoned to the bar of the House, and directed to read their minutes of the words used by Mr. Burke in respect to the Judges. Earl Carnarvon denied that the words complained of had been uttered by Mr. Burke; or, if they had been, he asserted that they had been used argumentatively, and not in the sense in which they had been understood by Earl Stanhope.* Lord Kenyon said that he was not aware Reflection by Earl Stanhope on expressions of Mr. Burke.

* The words, as they appear in Mr. Gurney's report, are as follow:—"There is an objection stated to the Judges, at the time, [alluding to the prosecution of

1794. whether the words had been used or not; but that the House ought to make inquiry into the imputed charge against the Judges.

Lord Loughborough declared that he had heard nothing, during the discussions in Westminster Hall, which need create the least uneasiness in the minds of the Judges. He deprecated an appeal to the notes of the short-hand writers, of whom he said that, "of all people, they were the furthest from correctness; and there were no man's words they ever heard that they again returned. They were in general ignorant, as acting mechanically, and by not considering the antecedent, and catching the sound and not the sense, they perverted the sense of the speaker, and made him appear as ignorant as themselves."*

The motion was negatived without a division.

On the 5th of May, the Lord Chancellor announced the decision of the Lords, that the document referred to on the preceding day could not be received in evidence. Mr. Burke then stated that he had important evidence to offer; which was open to no sort of objection. Mr. Hastings had justified his acceptance of various sums of money, with the receipt of which he was charged by the Commons, by the distressed state of the Company's affairs in 1779 and the four following years; and, as these distresses were mainly

Proposal of Mr. Burke to produce evidence on the cause of the Mahratta war.

Lord Strafford] which, I must confess, does completely astonish and confound me, and make me believe that we are in some different world from that in which we live, or that an arm of the Ganges has flowed into the Thames. What pollusive streams have endeavoured to poison the water—for they have not done it with the streams of the justice of England—I cannot conceive. They say the Judges were panic struck when they gave this opinion."—Gurney's Report, MS., 29th April, p. 175.

* "History of the Trial;" Part v., p. 105. It would appear, from Lord Loughborough's remarks, that the great superiority of Gurney's system, only recently introduced, and its complete practical success, had not as yet been generally recognised. Respecting the contrast in accuracy between his report of the proceedings on the trial and such portions as remain of that of the short-hand writer employed by Mr. Hastings, see Vol. i. p. xlii.

occasioned by the confederacy of the native powers against the Company, he proposed, in order to rebut Mr. Hastings' defence, to produce evidence of the origin, progress and termination, of the Mahratta war; and he should make it clear that Mr. Hastings was the author of that war, which occasioned the confederacy against the Company, and excited France to aim at the overthrow of the British empire in India. 1794.

Objections by Mr. Law.

Mr. Law objected to the proposed evidence, on the ground that it charged Mr. Hastings with a substantive crime, viz., the commencing a wanton and unjust war; and that it had been repeatedly decided by their Lordships that that which is a substantive and distinct head of crime cannot be given in evidence, in aggravation of other crimes specifically charged, unless it be itself so charged or collaterally introduced. He denied, moreover, that the production of the proposed evidence was justified by the evidence given in defence. He referred to page 757 of the printed Minutes, where it was recorded that the Managers had stated that "they would proceed to show that, whatever the circumstances of the danger [to the Company] might have been pretended to be, in the dominions of Oude, before the time of signing the treaty of Chunar, yet, after that time, and after the seizure of the treasures was determined, no state necessity whatever existed, upon which the Defendant could pretend to justify that measure,"—adding, that, "the honourable Managers having given evidence that there existed no state exigency at the time when these sums of money were specifically charged to be received, we, to repel that evidence, give the evidence which the honourable Manager has commented upon, showing that there existed a state of the most grievous distress on the part of the Company, and that these monies were necessarily applied to the alleviation of that distress."

1794. The evidence on the origin and progress of the Mahratta war, proposed to be now read, had been collected by the Select Committee of the House of Commons, of which Mr. Burke was the most active member, in the year 1781, and consisted of a mass of papers, filling several folio volumes. It referred, moreover, to transactions not brought forward in the Articles of Impeachment. The Court, accordingly, evinced a manifest disapproval of the attempt on the part of the Managers to involve them in this voluminous and irrelevant matter. Lord Kenyon, who was presiding in place of the Lord Chancellor, clearly indicated this feeling in the course of the discussion which ensued. Mr. Burke, however, and Mr. Fox insisted on the right of the Managers to put in all the papers, in answer to the evidence produced by the Defendant. Mr. Burke especially exhibited extreme irritation at the discouragement given to the production of the evidence. He declared that every word they heard increased the alarm of the Managers. When a person charged a crime with a fraudulent intention, and the other party admitted the fact, but took issue on the crime, it was for him to prove his good intention and good service, and then for the accuser to disprove it. "That is the order that has hitherto been used in all tribunals and all courts; and it is the strangest and newest thing [to reject the evidence in disproof]. Therefore, I take it, your Lordships will not do it; that your Lordships will not add this exceptional novelty to all the other proper novelties you have introduced in this trial." Increasing in excitement, he proceeded,—"I really have sometimes wished for an audience: and the British laws wish for an audience, as a control upon all judgments. I am glad to-day that a part of your audience does not understand one word that passes here: I am glad to find that a part of this auditory [alluding

Unwillingness of the Court to admit the evidence.

Observations of Mr. Burke.

to the Turkish ambassador and his suite], which has come from an Eastern part of the world, which is supposed not to administer the correctest and purest justice, does not hear that there is a chicane in this country, that is worse than the bowstrings of all the pashas in the East. Let us hear and see if, in the diwan, they could be found to try in the way tried here. We take for granted your Lordships will not disgrace the English justice in the eyes of foreigners. You will take care that it shall be pure and uncorrupted." 1794.

Reflections on the conduct of the Court by Mr. Burke.

Lord Kenyon desired an explanation of these charges against the Court from Mr. Burke; who stated that they were conditional on their Lordships rejecting the proposed evidence. The Bishop of Rochester—Dr. Horsley—reminded him of the expressions he had uttered; and Mr. Burke desired his words might be read. However, on the Earl of Carnarvon interfering with a further explanation that Mr. Burke, as he had understood him, referred only to what had passed between the Managers and Counsel, Lord Kenyon proceeded to arrange the form of the question to be decided by the Court; and the Lords withdrew to their chamber.

Rejection of the evidence by the Court.

On the following day, the 6th of May, the 129th day of the trial, Lord Kenyon, who again presided for the Lord Chancellor, announced the judgment of the Lords, that it was not competent for the Managers to give the proposed evidence relative to the Mahratta war.

Complaint of Mr. Burke.

Mr. Burke regretted that the Lords had given the Managers no insight into the ground and reason of their determination. They felt their want the more on this occasion, because they had heard from the Defendant's Counsel no argument, but, in the place of it, the grossest and most outrageous insult. * He complained that an

* Mr. Burke here alluded to Mr. Law's reply to the arguments he had used on the preceding day for the production of the evidence—" that it would be an

1794. opinion was suffered to be spread among the public, that they had offered this evidence with a probable knowledge of its incompetency and impropriety, for the mere purpose of oppressing the Defendant by the waste of time. He said:—"The manner in which we have been treated in this House, from the beginning to this time, is a thing without precedent or record in the Journals of Parliament, or known in the history of any country in the world. The manner has been perfect and almost uniform, from the beginning of this trial to this time." None suffered from the protraction of the trial more than the Managers, who were obliged to bear the laborious part of it, and were "obliged to bear all that obloquy from the hired pens and voices which Indian delinquency is able to procure, throughout the whole country." He justified the Managers from suspicion of malice towards Mr. Hastings, who, to the greatest number of them, had not been personally known before the impeachment, from whom they had received no injury whatever, and with whom they were no ways concerned upon any party principles. And he refuted the presumption that they could be misled by ignorance, since their full acquaintance with all the evidence, much of which the Court had not suffered to be produced before them, gave them an advantage over their Lordships. He continued in the following strain:—"I am afraid that almost all the precedents we have quoted are obliterated and gone from the minds of men: but I remember one of the oldest judges we have heard of, and who has been remarkable for his patience—though, with all his patience, he bitterly reprehended those that reproached him. I mean Job. He says—'The cause I knew not I searched out:' but if he had told us—'The cause I knew not I was resolved to remain ignorant of, and

insult to their Lordships, and treachery to Mr. Hastings, were he to waste a moment in further observations on what had been said by the Managers."—"History of the Trial;" Part v., p. 107.

formed to myself rules and principles which fortified me in my ignorance,' he might have given it as a proper answer to his yoke-fellow and friends, of whom he bitterly complains that they became his accusers. No: he says—'The cause I knew not I searched out;' and therefore, he says, he made the widow's heart to sing for joy. And why? Because she knew the cause that he searched out, and therefore the widow and fatherless blessed him. He never appeared in the gate without having the honour and obedience of all mankind. Now, my Lords, if there is delay in this business, we have never reproached your Lordships with it once: you have suffered us to be reproached with it every day." 1794.

Interruption by Mr. Hastings.

Here Mr. Hastings rose, and exclaimed—"My Lords, I do claim your protection. I do reproach the Manager with this delay. In all the time that he has wasted, in speaking upon delay, has he said one word by which the trial has been accelerated? Has the process of the trial gone on; or has anything been said which can be of use to your Lordships in judging my case? I come here to be tried."

Lord Kenyon urged Mr. Burke to proceed in the reply to the defence: and Earl Stanhope assured him that he was in error in supposing that the reason for rejecting the evidence in question was only the delay it would occasion. But the words of Mr. Hastings had given fresh occasion for Mr. Burke to reiterate his complaint of the imputation levelled against the Managers of purposely endeavouring to protract the proceedings. He now insisted that the charge was made directly against the Court itself; and that it was their duty to investigate it. He renewed his complaint that the Court had, from the beginning, permitted the Managers to be taunted with the accusation of maliciously delaying the trial; and had suffered, what had never before been tolerated by the House, "that the parties in the

1794. Court should be regularly, daily, and without exception of one hour, libelled, misrepresented and falsified, in the public papers." Notwithstanding efforts of dissuasion from Lord Somers and Lord Kenyon, Mr. Burke proceeded to read an extract from a daily paper,—"The Oracle,"—but was interrupted by Lord Thurlow, who said it was impossible for the Court to proceed upon anything but the trial; and that, if there were cause of complaint, the proper course was for the Commons to apply to the Lords by message. A long conversation ensued, at the end of which Mr. Burke stated he had been ready to prove that "what protraction there has been in this business has arisen from your Lordships and the prisoner, and not from us," and desired to be allowed to enter a protest on their Lordships' Journal, but which Lord Kenyon declined to receive.

Evidence on the Charge relating to presents.

On the termination of this long discussion, Mr. Fox proceeded to give in documentary evidence, in reply, on the sixth, seventh and fourteenth, Articles of the impeachment, relating to illegal presents; and the papers produced were read, with little interruption on the part of the Defendant's Counsel.

Evidence on the Charge relating to contracts.

Mr. Taylor followed with evidence in reply on the fourth Article, relating to corrupt contracts, which was also brought to a close without opposition. It was presumed that the evidence was now entirely closed on both sides. Mr. Burke, however, once more rose, and claimed to put in additional evidence, in the first place, in reply to evidence of Mr. Hastings concerning his circumstances, which was unopposed by the Counsel; and, secondly, in reply to the certificates from the inhabitants of Bengal, relative to the character of Mr. Hastings, to show the impossibility of their being *bonâ fide* testimonials. A portion of the evidence on the second head was not at the time ready at hand for production, and Lord Kenyon, complaining of the neglect of the Managers in being unprepared with the documents they desired to

1794.

read, urged that they should be dispensed with, and the evidence finally closed. Mr. Burke, however, though he declined to persist, in the face of a positive request from the Court, asserted most solemnly the great importance of the proposed evidence; and, after further conversation on this point, the books were brought into Court and the papers read.

Additional evidence.

Mr. Burke then offered to produce the report of Mr. Paterson concerning the transactions in Dinagepore and Rungpore, during the time of Mr. Hastings' government, and their effect on the minds of the inhabitants. Mr. Law, however, opposed the evidence, as having been already rejected by the Court, after a special debate on the point, when produced in reference to the case of Deby Sing.* Mr. Burke insisted that it was now produced for another purpose, viz., as evidence of the state of the country, in opposition to the pretended certificate of the inhabitants.

Attempt of Mr. Burke to read Mr. Paterson's report on the cruelties in Dinagepore.

Mr. Law pointed out that the evidence elsewhere collected relative to the state of the provinces of Rungpore and Dinagepore filled four folio volumes,† that their Lordships had pronounced this matter inadmissible, and that it was too much to expect the Counsel to relinquish the advantage of that judgment. In answer to further arguments of Mr. Burke, Mr. Law stated that the Counsel had repeatedly challenged the Managers to bring this evidence forward under a specific charge, which could have been met by specific evidence; but which they had not ventured to do; they should therefore maintain their objection to the admission of the evidence on the present occasion.

Objection by Mr. Law.

After a protracted discussion, in which Lord Kenyon repeatedly intimated his opinion that the evidence could not

Rejection of the evidence by the Court.

* See vol. ii., p. xxxiii.

† A complete copy of the proceedings in relation to the disturbances in these provinces was purchased for the British Museum, in the year 1834, and now forms Nos. 9790–9795 of the Additional MSS.

1794. be received, he was eventually induced to state the grounds of his objection, which were, that the report of Mr. Paterson, with its accompanying certificates was not made on oath, or was made on oath not taken in presence of the parties now at issue, and therefore was inadmissible. Whereupon, Mr. Burke intimated to the Court that, since they refused the proposed documents, he should make no attempt to bring forward other material evidence, with which, however, he was prepared.

Lord Kenyon then reminded Mr. Law that it was his turn to reply upon the fresh evidence given by the Managers: upon which Mr. Law addressed the Court:—

Address of Mr. Law.

"The evidence on the part of the prosecution being now finally closed, it might be permitted us, under your Lordships' indulgence, to observe at large upon the evidence which has been adduced in reply, in the course of the present session of Parliament. But, my Lords, in pursuance of that purpose which induced us, in the course of the last session of Parliament, to forbear to submit to your Lordships evidence prefatory to, and concluding observations upon, one entire Article of Charge—the contracts; and which induced us likewise to forego the advantage of enforcing the observations which might apply to another Article of the Charge—the presents; in pursuance of the same purpose of acceleration and dispatch which dictated our conduct in the instances I have alluded to, and with a view to the near and more immediate termination of this trial, we forego an advantage which can only be purchased at the intolerable expense of further protraction and delay.

"My Lords, we confidently trust that all the attempts which have been made, in the course of the present session of Parliament, to weaken the evidence that has been produced on the part of the Defendant, and to strengthen that of the Prosecutor, have not only failed of their intended effect, but have produced an effect directly the contrary. We confidently trust, my Lords, that the strong and irrefragable conclusions which result from the invaluable oral testimony which you have lately heard at your bar, cannot either have escaped your Lordships' penetration, or fail to have their due effect hereafter upon your Lordships' judgment. After returning to your Lordships our sincere and grateful acknowledgments for the invariable patience and condescension with which, during so many years, our imperfect but zealous endeavours to sustain the cause of our client, and to give him the benefit of such poor abilities as we are possessed of, have been honoured, we have only to add, on the part of Mr. Hastings, and in his name and on his part to implore, that your

Lordships will allot so much of continued time to the termination of what yet remains of this trial, as may advance it to its entire and ultimate close in the course of the present session of Parliament. To that moment, my Lords, Mr. Hastings looks forward, with impatience indeed, but with fearless expectation, being assured, as he is, equally of his own innocence and of your Lordships' justice." 1794.

On the 8th and 12th of May, the 130th and 131st days of the trial, Mr. Grey, on the part of the Managers, summed up the evidence in reply on the Benares Charge. Mr. Grey's reply on the Benares Charge.

On the 14th of May, the 132d day of the trial, Mr. Sheridan replied on the second Article, relating to the Begums of Oude.* Mr. Sheridan's reply on the Charge relating to the Begums.

On the 20th and 21st of May, the 133d and 134th days of the trial, Mr. Fox replied on the sixth, seventh and fourteenth, Articles, relating to illegal presents. As the Court was rising, at the close of the former day, Mr. Hastings made the following address:— Reply of Mr. Fox on the Charge relating to presents.

"My Lords, before you depart, may I be permitted to address myself to your Lordships? Your Lordships cannot be surprised if, at this late period, I must feel myself exceedingly alarmed at the frequent adjournments which have been made; and those adjournments prolonged on the pleas of sickness, and inability to carry on the prosecution. With respect to the first instance, I will do the gentleman to whom I allude that justice which I am sure he will never allow to me, by saying that I acknowledge his plea was a just one. I saw that he was unable to pro- Address of Mr. Hastings.

* Sheridan's reply will be found to touch very lightly on the difficulties in the Charge. It has been suspected by some that neither he nor Fox, after their political separation from Burke, on the questions arising out of the French revolution, gave that cordial support to the impeachment, or assistance to Mr. Burke in his prosecution of it, that they had afforded in the earlier stages of the proceedings. Moore says of Sheridan that, on the occasion of his reply, he came purposely into Court unprovided with the necessary papers, professing that "he would abuse Ned Law; ridicule Plumer's long orations; make the Court laugh; please the women; and, with Taylor's aid, get triumphantly through the task;"—but he adds, that he had it on good authority that "Sheridan, previously to the delivery of his speech, passed two or three days alone at Wanstead, so occupied from morning till night in writing and reading of papers, as to complain in the evening that he had motes before his eyes."—Life of Sheridan; Vol. ii. p. 249. Adolphus' "History of England;" Vol. vi., p. 216.

1794 ceed. It was real sickness that prevented him. Whether the pleas since made are just or not, it perhaps will not become me to say before your Lordships: but I will complain of reports that were made that the right honourable gentleman who just now spoke had obtained your Lordships' permission, by a message from the Commons, to adjourn the trial to another day, because he was sick. I was told that he was in bed, so hoarse that he could not speak. My Lords, on the day on which he ought to have been in this Court and doing his duty, I saw him riding in the burning sun—certainly no cure for a cold or a fever—and I heard his voice, as audible almost as I hear it now. My Lords, I complain of this, not as an injury done to me, but as a hardship which I feel, because I see the time wasting. I see the very small period that yet remains of this month, in which I am told not only the session, but this Parliament must conclude—I see it daily wasting away, and so little done.

My Lords, I have been accused with delays. Your Lordships, I am sure, well know that it is true that, in all this period, in the seven years that I have attended this bar, I never once made the plea of sickness, nor desired to be excused from my attendance; and yet you will not suppose that I am more exempt from infirmities of human nature than my accusers. I suffer more than they do. This very day, that I undergo these aggravating invectives thrown out against me, I must feel what every man in my situation would feel. I have never desired to be excused from my attendance one day; yet I can tell you, my Lords, that there were two days in which I rose from a bed of sickness, and with a fever in my veins, and attended in this place; and, so far was I from making it an excuse, that I did all I could to conceal it from your Lordships, and to conceal it from others, who perhaps would have made it a plea of compassion to adjourn the trial.

Now, all that I have to request and implore of your Lordships is, that these delays, whether true or false, may not operate to my injury; and I care not how many days I do attend, if your Lordships will be resolved to finish the trial this year. There cannot be much time wanting for what remains merely of speaking; and this indulgence, which I think I have a right to crave, is what I most humbly implore your Lordships to grant me."

To this address Mr. Fox made the following reply:—

Reply of Mr. Fox.

"It becomes absolutely necessary for me to trouble your Lordships with a very few words. I certainly do feel the situation of the Defendant, and therefore think many things may be allowed to that situation which perhaps, in many others, may not be considered as strictly proper. But a sort of accusation that has been made against me makes it necessary for me to take the opportunity of this full Hall, merely to state what is to your Lordships fully known. The trial was to come on

on Friday. I wrote letters to several noble Lords in this House, particularly the learned Lord who during the indisposition of the noble Lord on the woolsack executed that office for him, in which I did distinctly state that, so far from being ill in bed, I was ready to go on on Friday, if it was thought it would be of any material advantage towards accelerating the ultimate end of this trial; but that, having been indisposed—which I do assure the gentleman at the bar I was, and that that which he thinks not a very wise conduct those who advised me thought proper — I could attend this House on a subsequent day, such as yesterday or Saturday, with greater ease than on Friday. I stated then that I was ready to go on; but I did state truly that, having been indisposed, I could with more satisfaction to myself go on on a future day; and, in consequence of that, your Lordships were so good as to adjourn the sitting: but I am sure I shall, at least, be acquitted from having made an unfair and improper state of my own health." 1794.

Mr. Burke.—"These complaints have so often come before your Lordships from this criminal, that I think it is necessary to say a few words upon the subject. We made no complaint when, at his desire, your Lordships chose to adjourn for ten days, to receive the evidence of a noble Lord, who was not in India, and who could not speak to any one circumstance of his transactions. We did not deny him that time, though he now presumes to accuse us of ill designs, upon the idea of an existing illness. He says, his case is harder than ours. Your Lordships know, whatever is the length of the chain, we have the other end of it; but there is this difference, that we have not got 90,000*l.* of Rajah Nobkissin's money in our pockets, to console us under the troubles which we bear. Let him answer to that."

On the 23d and 27th of May, the 135th and 136th days of the trial, Mr. Taylor replied on the fourth Article of the Charge, relating to corrupt contracts. Mr. Taylor's reply on the Charge relating to contracts.

On the 28th of May, Mr. Burke commenced his final reply, on the part of the Commons, on all the Articles of the Charge. He continued his speech on the 30th of the same month, and on the 3d, 5th, 7th, 11th, 13th and 14th, of June, and finished it on the 16th of that month, the 145th day of the trial. Final reply by Mr. Burke.

In this, his final and most remarkable effort to support the case of the prosecution, Mr. Burke reviewed the whole series of circumstances included in the several Charges; not so much for the purpose of making plainer the broader features of the case insisted on by his fellow Managers, who

1794. had preceded him, as with the aim to heighten the criminality of the actions impeached by tracing corrupt motives in relation to them, and to bring into stronger light minor and correlative circumstances altogether passed over, or but slightly noticed, during the process of establishing the more substantial facts of the impeachment. The unflagging eagerness with which he unravelled all the intricacies of transactions complicated in themselves or purposely obscured shows that his early conviction of the reality of the crimes he was prosecuting was still unchanged. The invective of his final reply surpasses in its vehemence that of his first opening of the Charge. So intolerable was the bitterness of his denunciations to the Defendant himself, in whose presence they were uttered, that in one instance they drew from him a passionate exclamation of dissent from the assertions of the orator, occasioning an interruption in his address.*

It will be observed that Mr. Burke was stopped by the Lord Chancellor in an endeavour to introduce and comment upon a portion of the Charge which had been abandoned by the Commons during the progress of the trial, or, as Mr. Burke himself explained it, had not been supported by evidence because admitted by the Defendant himself.†

Petition of Mr. Hastings to the House of Lords.

The extraordinary length of Mr. Burke's final reply excited apprehensions in the mind of Mr. Hastings, during its delivery, that it was intended to be extended over the present session of Parliament; and he, accordingly, on the 5th of June, after the adjournment of the Lords to their chamber, presented to the House the following petition, through Lord Hardwick:—

"That it is with the greatest reluctance and concern that your Petitioner feels himself obliged once more to address your Lordships on the

* See Mr. Burke's speech of the 11th of June, *infra*, p. 612.

† Speech of the 12th of June, *infra*, p. 636.

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subject of his long depending trial. Your Petitioner begs leave to lay before your Lordships his well-founded apprehensions, excited by the manner in which the general reply on the part of the Managers is now evidently conducted, that such reply is meant to be extended beyond the probable limits of the present session of Parliament. Your Petitioner hopes he may be allowed to bring to your Lordships' recollection, that the reply was, at the instance of the Managers, adjourned over from the last year, under the assurance of an accelerated and early termination of it; and that the whole of the present session, except a small interruption occasioned by the examination of the Marquess Cornwallis, has been employed by the honourable Managers, notwithstanding that your Petitioner has, for the purpose of despatch, in addition to the sacrifices made for a similar purpose in the last year, waived his right to observe by his Counsel on the new evidence adduced in reply.

"Your Petitioner begs leave again to suggest to your Lordships the unexampled duration of his trial, the indefinite period to which it may be still further protracted, and the extreme vexation and injury to which he would be subjected, if the intention on the part of his prosecutors should be suffered to have effect. He implores, therefore, of your Lordships' humanity and justice, that such measures be adopted, on the part of your Lordships, as may assure to your Petitioner the speedy termination of this painful and unparalleled proceeding; and, further, if need should be, that your Lordships will graciously condescend, in such a manner as to the wisdom and dignity of your Lordships may seem meet, to become suitors to his Majesty's goodness, in his behalf, that the present session of Parliament may be permitted to continue, till the reply on the part of the honourable Managers for the House of Commons shall be fully and finally closed.

"Westminster Hall, June 5th, 1794." *

Complaint by Mr. Burke of Mr. Hastings' petition.

On the opening of the Court, on the 7th of June, Mr. Burke complained of the conduct of the Lords in recording in their Journal this petition of Mr. Hastings, which he stigmatised as "an audacious libel;" adding that he passed it by at present, in order to have the opportunity of consulting the House of Commons on the course to be pursued in reference to it.

Report of Committee on the causes of delay in the trial.

We have already stated that, on the 6th of March, in this year, Mr. Burke moved in the House of Commons for the appointment of a Committee, to inspect the Journals of

* "History of the Trial;" Part v., p. 129.

1794. the House, and to report the occurrences of the trial, and the causes of delay in the proceedings, and that the Managers were nominated a Committee for that purpose; that, on the 17th of April following, Mr. Burke presented to the House the Report of the Committee, which was ordered to be printed; and that, on the 29th day of the same month, Mr. Burke obtained the consent of the House to rescind the order for printing the Report, and to recommit it for correction, certain inaccuracies having been detected in it by the Managers themselves.

The Report, as amended, was again presented to the House on the 30th of April.

It had been drawn up by Mr. Burke himself, who, having shortly explained the causes of the slow progress of the trial, entered into an elaborate discussion of constitutional questions affected by the ruling of the Court on points of contest between the Managers and the Defendant's Counsel, and especially in respect to the Lords' decisions in disputed claims for admission of evidence, and their refusal to accompany their judgments with the reasons on which they had been based. The Report, in addition to its other merits, affords so complete a view of the difficulties complained of by the Managers, as thrown in their way by the Court in the conduct of the proceedings, that a statement of its conclusions, chapter by chapter, will be an useful addition to the short account we have attempted to give of the incidents of the trial.*

Epitome of the Report.

The Duration of the Trial.—The Report pointed out that the Court had held, up to the 1st of March, inclusive, one

* The Report was printed for the House of Commons; it was published at the time by Debrett, and has since been frequently reprinted. An answer to it was given, in the form of a pamphlet, intitled "Observations on the Report of the Committee appointed to Report the Causes of the Delay in the Trial of Warren Hastings, Esq.," Debrett, 1794; but which avoided the questions of constitutional law discussed in the Report.

hundred and eighteen sittings, spread over seven sessions of Parliament; that the length of period comprised in the proceedings was principally due to the frequent prorogations, and one dissolution, of Parliament, and to adjournments of the Court—particularly to adjournments on account of the circuit of the Judges, interposed in the middle of the session. That, in addition to these causes, a few days were lost from special causes of interruption; viz., an adjournment of ten days [in the year 1789] on account of a complaint by the Defendant against one of the Managers [Mr. Burke];* two days' adjournment on account of the illness of one of the Managers; about two days lost at the close of the session of 1793, by the Managers not being prepared to commence their reply, owing to "the unexpected dereliction of the defence of the prisoner;" and a loss of about a week or ten days in the present session, from waiting for the recovery from indisposition of the Marquess Cornwallis.

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Epitome of the Report on the causes of delay in the trial.

The length of the proceedings is attributed to the nature and extent of the matter to be tried, and the number of the documents produced in evidence, but more particularly to the objections raised by the Defendant's Counsel to the admission of evidence offered by the Managers. "These objections amounted to sixty-two; they gave rise to several debates, and to twelve references from the Court to the Judges." The objections by the Managers were few, shortly discussed, and not referred to the Judges, nor even debated in the chamber of the Lords.

The Report having thus very briefly indicated the causes of the protraction of the proceedings, discusses at very great length the jurisdiction of the Lords, as a Court for trying cases of impeachment, and its rules of proceeding,

* See the Summary of Proceedings on the Trial; Vol. ii., p. xviii.

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Epitome of the Report on the causes of delay in the trial.

and also the rights and powers of the House of Commons, in their impeachments. These observations are distributed under the following heads :—

Relation of the Judges, &c., to the Court of Parliament.—The Judges are no integrant and necessary part of the Court. Their writs of summons are different; and they have no deliberative voice in the judgments given in the House of Lords. Their attendance in the Court is for the purpose of answering questions, and advising in matters on which they may be consulted.

Jurisdiction of the Lords.—The Lords are judges both of law and fact; and ought not to submit themselves to the direction of the Judges of the inferior courts, in reference to receiving or rejecting evidence.

Law of Parliament.—The Lords, in matters of appeal or impeachment in Parliament, are not of right obliged to proceed according to the rules of any law, except only the law and usage of Parliament. Reference is made to an appeal in Parliament, in the year 11 Richard II.

Rule of pleading.—The rules of pleading observed in the inferior courts have no authority in causes where the whole procedure has been within the jurisdiction of the House of Lords. No "demurrer or exception, as of false or erroneous pleading, has ever been admitted to any impeachment in Parliament." The trials of Lord Strafford and Dr. Sacheverel are referred to, and the Act of 7 Will. III. is quoted, to show that proceedings in Parliament are exempted from rules affecting trials in other courts.

Conduct of the Commons in pleading.—A laxity is allowed, in the pleading of the Commons in the High Court of Parliament, which is not admitted in the inferior courts. The case of Lord Wintoun, in 1715, is referred to, where exception was taken against the impeachment on account of error, the day on which the treason was committed not

having been alleged. The exception was overruled, on the ground that "the impeachment is sufficiently certain in point of time, according to the form of impeachments in Parliament." The law of Parliament, and the law of Parliament only, should prevail in a trial of the impeachment of the Commons. 1794.

Epitome of the Report on the causes of delay in the trial.

Publicity of the Judges' opinions.—It is argued at great length, and with references to several precedents, that "from the 30th year of Charles II. until the trial of Warren Hastings, Esquire, in all trials in Parliament, as well upon impeachments of the Commons, as on indictments brought up by *certiorari*, when any matter of law hath been agitated at the bar, or, in the course of trial, hath been stated by any Lord in the Court, it hath been the prevalent custom to state the same in open Court."

Publicity general.—Although no positive law is found which binds the Judges of the courts in Westminster Hall to give a reasoned opinion publicly from the bench in support of their judgments, the course has prevailed from the earliest times. The same practice prevails where the Judges are consulted by the Peers on the law, in all writs of error brought before them.

The Report produces opinions of law-writers, and argues on the value of the practice. It then states that, in the present trial, a marked innovation is observed. Against the reiterated requests, remonstrances and protestations, of the Managers, the opinions of the Judges were always taken secretly. It further complains that the very questions proposed for the Judges were not settled in open court, "but differed materially from what your Managers contended was the true state of the question, as put and argued by them;" and that the Managers have never been able to form a clear opinion upon the ground and principle of the decisions on these questions.

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Epitome of the Report on the causes of delay in the trial.

Mode of putting the Questions.—On this head, the Report charges the Lords with following an unprecedented course, striking at the vital privileges of the House of Commons, inasmuch as the form of the questions submitted to the Judges was always, after statement of the case, "What evidence is it competent for the Managers of the House of Commons to produce?" thereby referring it to the Judges to decide on what it might be competent for the Commons to do, and subjecting to their discretion the law of Parliament, the privileges of the Commons, and, in a great measure, the judicial privileges of the Lords themselves. The novelty and danger of the practice is argued at great length; and it is asserted that the effect of it was, "not only to make the Judges master of the whole process and conduct of the trial, but, through that medium, to transfer to them the ultimate judgment on the cause itself and its merits."

Debates on Evidence.—Great ingenuity is exercised to show that the rigorous and precise rules of the lower courts, in relation to evidence, are not applicable in cases of impeachment; and that "the Court of Parliament ought to be open with great facility to the production of all evidence, except that which the precedents of Parliament teach them authoritatively to reject, or which hath no sort of natural aptitude, directly or circumstantially, to prove the case." "The Lords ought to enlarge, and not to contract, the rules of evidence, according to the nature and difficulties of the case." When evidence produced was denied to be admissible, the burden lay with those who opposed it to set forth the authorities, whether of statute or precedent, which rejected it. This was not the practice of the Court in the present trial, either of the Lords in their debates, or of the Judges in the opinions given by them. "Therefore, for anything which as yet appears to your Committee

to the contrary, these responses and decisions were, in many of the points, not the determination of any law whatsoever, but mere arbitrary decrees, to which we could not, without solemn protestation, submit." After references to precedents in earlier impeachments, and to opinions of writers on civil law, it is asserted that "the Committee can find nothing to support any one of the determinations given by the Judges, and adopted by the Lords, against the evidence which your Committee offered."

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In the practice of the law of England, the rules of evidence are "rather less strict, more liberal, and less loaded with positive limitations, than in the Roman law." Numerous cases are referred to and authorities quoted to prove the liberality of the rules of evidence; and the conclusion is drawn that—"if anything of an over-formal strictness is introduced into the trial of Warren Hastings, Esquire, it does not seem to be copied from the decisions of these tribunals. It is with great satisfaction your Committee has found, that the reproach of 'disgraceful subtleties,' inferior rules of evidence which prevent the discovery of truth, of forms and modes of proceeding which stand in the way of that justice, the forwarding of which is the sole rational object of their invention, cannot fairly be imputed to the common law of England, or to the ordinary practice of the courts below."

Circumstantial Evidence, &c. It is complained that the Managers have been obliged by the Court to state the purpose for which they produced each part of their circumstantial evidence; and this practice was most strictly enforced at the period when it was most injurious and difficult to comply with it; viz., in proving their charges of secret crimes, peculation, pecuniary frauds, extortion and bribery. "Much industry and art have been used, among the illiterate and unexperienced, to throw imputations on this prosecution and

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its conduct, because so great a proportion of the evidence offered on this trial (especially on the latter charges) has been circumstantial:" and precedents are quoted to show the value of circumstantial evidence when properly produced. Referring particularly to the trial of Captain Donellan, who was found guilty of murder wholly on circumstantial evidence, the Report observes, that, "comparing the proceedings on that trial and the doctrines from the bench with the doctrines we have heard from the woolsack, your Committee cannot comprehend how they can be reconciled. For the Lords compelled the Managers to declare for what purpose they produced each separate member of their circumstantial evidence; a thing, we conceive, not usual, and particularly not observed in the trial of Donellan." The Report proceeds to illustrate the difficulties to which the Managers were subjected, in this respect, by detailing the circumstances of the refusal of the Lords to receive in evidence a paper containing the charges brought against Mr. Hastings by the Raja Nundcomar, and drawn up by the Members of the Council of Calcutta, hostile to Mr. Hastings, forming a majority of the Board;* and animadverts severely ou the judgment of the Lords which excluded the proposed evidence.

Order and time of producing Evidence.—The Managers "found great impediment in the production of evidence, not only on account of the general doctrines supposed to exist concerning its inadmissibility, drawn from its own alleged natural incompetency, or from its inapplicability, under the pleading of the impeachment of this House, but also from the mode of proceeding in bringing it forward. Evidence which we thought necessary to the elucidation of the cause was not suffered, upon the supposed rules of exami-

* See a notice of the circumstances referred to in a previous part of the Summary of Proceedings on the Trial; Vol. ii., p. xx.

nation in chief and cross-examination, and upon supposed rules forming a distinction between evidence originally produced on the charge and evidence offered on the reply. On all these your Committee observes in general that, if the rules which respect the substance of the evidence are (as the great lawyers, on whose authority we stand, assert they are) no more than rules of convenience, much more are those subordinate rules which regard the order, the manner, and the time of the arrangement. These are purely arbitrary, without the least reference to any fixed principle in the nature of things, or to any settled maxim of jurisprudence, and consequently are variable at every instant, as the conveniences of the cause may require." It is argued at length that it was the duty of the Court to receive evidence, at whatever stage of the proceedings produced, if apparently material; and, after quoting numerous precedents, the Committee state that "exclusion of evidence brought for the discovery of truth is unsupported either by Parliamentary precedent, or by the rule as understood in the common law courts below," and they think "they had a right to see such a body of precedents and arguments for the rejection of evidence during trial in some court or other, before they were in this matter stopped and concluded."

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Epitome of the Report on the causes of delay in the trial.

Practice below.—The Committee "not having learned that the resolutions of the Judges (by which the Lords have been guided) were supported by any authority in law to which they could have access, have heard by rumour that they have been justified upon the practice of the courts in ordinary trials by commission of Oyer and Terminer." The Report points out the difference in the constitution of the court of Peers from that of the ordinary courts; where, as the case is decided by a jury taken promiscuously from the mass of the people, the judge properly decides on the competency of the evidence to be set before them. The

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Lords, on the other hand, are by law fully and exclusively equal to decide on the competency of evidence, and ought not to submit themselves to the authority of the Judges. The Report concludes with an argument to show that "this final and independent judicature (exercised by the House of Lords) because it is final and independent, ought to be very cautious with regard to the rejection of evidence."

Appendix to the Report.

In an Appendix to the Report, all the questions, twelve in number, which had been referred to the Judges, were collected, with their opinion upon each.

Observations on the Report by Lord Thurlow, in the House of Lords.

The strong reflections contained in this Report upon the principles on which the trial had been conducted were not suffered to pass altogether unnoticed by the Peers. In a debate in their House, on the 22d of May, on the Habeas Corpus Suspension Bill, Lord Thurlow, under whose presidency, as Lord Chancellor, the proceedings had principally been conducted, drew the attention of their Lordships to it, as "a pamphlet which had been published by one Debrett, in Piccadilly, and which had that day been put into his hands, reflecting highly upon the Judges and many members of that House." He proceeded to say that—"it was disgraceful and indecent, and such as he thought never ought to pass unpunished. He considered that vilifying and misrepresenting the conduct of Judges and magistrates, entrusted with the administration of justice and the laws of the country, was a crime of a very heinous nature, most destructive in its consequences, because it tended to lower them in the opinion of those who ought to feel a proper reverence and respect for their high and important stations; and, when it was stated to the ignorant and the wicked that their Judges and magistrates were ignorant and corrupt, it tended to lessen their respect for, and their obedience to, the laws of the country, because they were taught to think ill of those who administered them."

His Lordship's observations drew no remarks from any other member of the House; but, on the following day, Mr. Burke called the attention of the House of Commons to what had passed in the Upper House. In reference to what Lord Thurlow had said, of the necessity of preserving the authority of the Judges, he said he agreed with him; but added—"This, however, does not depend on us, but upon themselves. It is necessary to preserve the dignity and respect of all the constituted authorities. This, too, depends upon ourselves. It is necessary to preserve the respect due to the House of Lords: it is full as necessary to preserve the respect due to the House of Commons; upon which (whatever may be thought of us by some persons) the weight and force of all other authorities within this kingdom essentially depend." He justified the language of the Report, as not charging the Judges with either ignorance or corruption, but complaining that their opinions had been given not on the law but on the case; and he reiterated the statement it conveyed, that the Managers were "extremely dissatisfied with those opinions, and the consequent determinations of the Lords. The Report," he said, "speaks for itself. Whenever an occasion shall be regularly given to maintain everything of substance in that paper, I shall be ready to meet the proudest name, for ability, learning or rank, that this kingdom contains, upon that subject." No reply or observation was made on the subject by any other member.

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Notice of Lord Thurlow's remarks by Mr. Burke, in the House of Commons.

Seven years had now passed since the House of Commons had voted, by large majorities, the impeachment of Warren Hastings, on the greater number of the Articles charged against him. The members of the House, to whom the management of this arduous prosecution had been committed, had applied themselves to their very difficult and laborious duty with unflagging zeal through this protracted period. Mr. Burke, above all, the leading Manager of the prosecution, had

Exertions of Mr. Burke in prosecuting the impeachment.

1794. urged on the proceedings with all the energy of his great and ardent mind, excited by a sense of the importance of the cause, and a thorough conviction of the reality of the crimes imputed. Indeed, nothing but such a persuasion, and the hope that, in exposing and bringing to punishment a systematised course of tyranny, pursued in a dependency of the empire too remote for the supervision of the home Government, he was rescuing many millions of his fellow-creatures from unchecked oppression, and saving a rich and populous empire from misrule and degradation, could have sustained him under the labours and discouragements his self-imposed task brought upon him. He had to bear to see political friends fall off from him, and those who had warmly seconded him in urging on the House of Commons the necessity of the impeachment grow lukewarm, at the moment when increased zeal was needed to work through the details of the trial. He had to suffer the sneers of his personal opponents, as well as the open attacks and secret insinuations of the numerous personal supporters of the man he was prosecuting. He had to endure the loss of the assistance of Mr. Francis, the only man influenced by an equally intense interest in the prosecution—though from a different motive—and whose intimate acquaintance with affairs of India would have lightened to him the toil of mastering those difficult details of the cause which might have daunted a less powerful or a less enthusiastic mind. He had to contend, almost unaided, with the astuteness of trained lawyers, always watching to baffle him in his pursuit of evidence with all the intricacies and wiles of technical practice. All this—even to the hostility of the very President of the court he pleaded before—he had to endure, as patiently as he might, through seven long, toilsome, years, and amidst the distraction of public events more threatening and terrible, especially in his eyes, than any recorded in the page of modern history;

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yet to the last moment his energy never flagged. His portion of the labour was at length finished. He had succeeded in bringing the cause he had devoted so much of his time and genius to up to its final stage, where only the judgment of the Court remained to terminate the trial. The prorogation of Parliament was impending; and the House of Commons could not decently defer to another session the duty of honouring those who had given such great talents and so much gratuitous labour to the task imposed on them.

Mr. Pitt's motion of thanks of the House to the Managers.

On the 20th of June, Mr. Pitt moved "that the thanks of the House be given to the members who were appointed Managers of the impeachment against Warren Hastings, Esq., for their faithful management in their discharge of the trust reposed in them." He prefaced his motion with arguments dissuasive of opposition from those who had avowed themselves hostile to the impeachment. This, he said, had been voted, not only under the conviction of the guilt of the party impeached, but as a terror to those placed in a similar situation, in the government of our distant provinces; and, whatever the ultimate decision might be, he was confident that the example of Mr. Hastings would deter other governors from a repetition of the practices which marked his administration. He exculpated the Managers from the charge of having unduly protracted the trial, and threw the responsibility of the length of the proceedings on the Counsel for the defence: and he warned the friends of Mr. Hastings that it was doubtful "whether an unanimous vote of that House (honourable though it was) would be so honourable to the Managers as a vote of thanks marked with the discriminating negative of those who felt themselves irritated and stung by the faithful and admirable discharge of the task imposed upon them by their country."

Debate on the motion of thanks.

The debate on the motion of the minister gave to

1794. the friends of Mr. Hastings the opportunity they desired of blackening the character of the impeachment, by denouncing the conduct and language of the principal Manager. Mr. Sumner lead the way in this attack on Mr. Burke. After objecting to the motion, as being prematurely proposed, while neither the verdict nor judgment of the Lords had been pronounced, he said that, though he thought the charges ill founded, he, if the time were proper, should be willing that the Managers should receive the thanks of the House for doing their best to support them, provided they could except "the leading Manager, who had by his conduct disgraced and degraded the House of Commons." Although called to order by the Speaker, the member proceeded to cite instances in which Mr. Burke had gone beyond the intentions of the House, by criminating other parties, by persisting in the prosecution of Articles of the Charge which the House had ordered to be dropped, and by charging Mr. Hastings with murder, and repeating the charge, even after he had received the reprimand of the House for exceeding his instructions; and he quoted the most violent passages in Mr. Burke's speeches addressed to Mr. Hastings.

Speech of Mr. Sumner against Mr. Burke.

Speeches in defence of Mr. Burke.

Other members urged similar objections; which were answered by Mr. Windham, a Manager, Mr. Francis and Mr. Fox. Mr. Francis showed that Mr. Sumner had misunderstood some of the expressions of Mr. Burke, which he had denounced as most objectionable; and Mr. Fox, disclaiming all separation between the leading Manager and his colleagues, assumed to himself the blame, if there was any, in persisting to think the fate of Nundcomar a murder, after the censure passed on Mr. Burke by the House of Commons.

Speech of Mr. E. Law against Mr. Burke.

Mr. Ewan Law, a brother of Mr. Hastings' Counsel, took up the debate on the side of the opposition. He

repeated in the coarsest terms the charge against Mr. Burke of unjustifiable violence of language; averring that his expressions "were universally reprobated, from the first characters amongst the numerous audience that had heard them, down to the messengers, door-keepers and guards." He went at great length into an explanation of the story of Deby Sing, to show that Mr. Hastings had no concern in the atrocities exposed by Mr. Burke. He accused Mr. Burke of purposely protracting the trial; and particularly criticised his final speech in reply. 1794.

Mr. Anstruther, one of the Managers, spoke shortly in justification of Mr. Burke, on the subject of the charge relating to Deby Sing; and Mr. Sheridan stated that, having originally intended not to vote, the nature of the opposition to the motion induced him to remain in the House and vote in support of it.

Division.

The previous question being put, the House divided, when the votes in favour of the question were 55 against 21 in the negative.

The main question being then put, the House again divided, and it was carried by 50 votes againt 21.

Thanks of the House conveyed by the Speaker.

The Speaker accordingly communicated the thanks of the House to the Managers; adverting, in the course of his address, to the increased security given to the constitution, "by the recognition and full confirmation of the principle, that an impeachment is not discontinued by a dissolution of Parliament."

Reply of Mr. Burke.

Mr. Burke, in the name of the Managers, expressed their gratification at the acknowledgment their labours had received from the House, and at the dignified and elegant manner in which the Speaker had conveyed it. He entered into a short defence of the conduct of the impeachment. He explained that he had thrown no general reflections on the Company's servants, but had merely repeated what

1795. Mr. Hastings had himself said of the troops serving in Oude: as for the other expressions complained of, they had been very much misrepresented. He attributed the bitterness of the personal remarks upon his conduct to the prejudices of private friendship, and assured the House that no asperity of language should provoke him to say a word in recrimination.*

Mr. Burke's retirement from Parliament.

This was the last speech that Mr. Burke made in the House of Commons; and indeed his last appearance there. He, the very next day, applied for the Chiltern Hundreds, and retired for ever from public life.

Debates of the Lords on the form of procedure in giving judgment.

The Parliament reassembled early in the year 1795, and, after a short adjournment, on account of the indisposition of Lord Thurlow, the House of Lords entered into a consideration of the mode of proceeding in giving their final verdict in the great cause that had been so long disputed before them in Westminster Hall.

Committee to report on precedents.

On the 23d of January, Lord Chancellor Loughborough moved for a Committee to inspect the Journals, and to report on the course followed in previous cases, in giving judgment on trials of high crimes and misdemeanours. The Report of this Committee was presented on the 19th of February, and was taken into consideration on the 26th.

Course of proceeding proposed by Lord Thurlow.

Lord Thurlow, after stating that the precedents collected in the Report had no resemblance to the case under the consideration of the House, observed, that, as out of the twenty Articles of the impeachment the Commons had given evidence on only six, it was an act of justice to acquit Mr. Hastings of the remaining fourteen. The six Articles on which they had given evidence contained severally so many allegations of criminal facts that he thought it impossible to put one question only on each Article, as had been the general practice;

* "Parliamentary History;" Vol. xxxi., 936.

and he thought it might be necessary to put a separate question upon each allegation. He proposed, therefore, that the House should resolve itself into a Committee of the whole House, to afford opportunity for a full discussion of the proceedings. The proposal was assented to, and the Report was referred to a Committee of the whole House. 1795. Committee of the whole House.

On the 2d of March, Lord Thurlow, in opening the discussion on the mode of proceeding, entered into a consideration of the character of the impeachment. He complained of the looseness and inaccuracy with which the Articles had been drawn, and that they contained many assertions that could not be substantiated. The impeachment, in its present form, rested on the following points—breach of faith, oppression and injustice, as charged in the two first Articles; corruption, as charged in the Article of Presents; and wanton waste of the public money, for private purposes, as charged in the Article of Contracts. With regard to the first of these, the question would be whether Mr. Hastings had exerted the power he possessed for the public good, or had been actuated by base and malicious motives. Unless the latter were proved, the charges in the two first Articles fell to the ground. The preamble of the Articles was materially defective, inasmuch as it fixed on Mr. Hastings the sole responsibility for acts, in some instances done by others, in other instances in which others participated. Speech of Lord Thurlow on the character of the impeachment.

He proposed that, in discussing among themselves the merits of the prosecution, they should debate on the several allegations in the Articles on which evidence had been given, *seriatim*, because, although, if the whole House were of opinion that no part of an Article had been proved, a single vote would suffice on that Article, yet, if any individual Peer thought that some allegations in the Article were made out, though others were not substantiated, it would be necessary to vote on each allegation. The Benares Proposal to discuss the several allegations in each Article of the Charge.

1795. Article, for instance, contained many charges, on each of which, if a difference of opinion existed, the House must give a separate vote.

Speech of Lord Loughborough.

The Chancellor, Lord Loughborough, concurred in the proposal of Lord Thurlow, who forthwith opened the discussion on the Benares Charge. In this, he said, no question would arise till they came to the demand made on Cheyt Sing of a war subsidy, in 1778. The criminality charged in this measure consisted in the malice imputed to Mr. Hastings in originating it. In reviewing the subject, he justified the measure, and exculpated Mr. Hastings from any malicious motive in connexion with it.

After a few words from Lord Carnarvon and Lord Moira, the Committee reported progress.

Discussion on the demands made on Cheyt Sing in 1778, 1779 and 1780.

On the 3d of March, the attention of the House was engaged in hearing the evidence read on the subject of the demands made on Cheyt Sing in the years 1778, 1779 and 1780.

Right of Lords to vote on the verdict.

On the 5th of the same month, the discussion was renewed, but was interrupted by a proposal from the Earl of Carnarvon to the House to consider which Lords had, and which had not, the right to vote; as it would be to the eternal disgrace of the House, if Lords who had not attended the proceedings on the trial should ultimately vote in Westminster Hall. Several Lords spoke on this subject, but the House tacitly acquiesced in the view expressed by Lord Thurlow, that it must be left to the conscience and sense of honour of every Peer to determine how many days' attendance on the trial intitled him to vote on the verdict.

Division on the first question.

After observations by Lord Loughborough, in which he acquitted Mr. Hastings of criminality in the demands made in the years 1778 and 1779, but imputed a certain degree of blame to him in respect of that made in 1780, the question was put—"That the Commons had made good their

charge in respect to the tribute claimed and received from Cheyt Sing, in 1778 and 1789," and the motion was unanimously rejected. 1795.

Purpose of the discussions.

In the course of the discussion, it was clearly explained that their present proceedings were merely designed to assist the House in forming its conclusions on the several allegations in the Articles; and that the questions decided in the Committee were not to interfere with those that were ultimately to be put in Westminster Hall; such ultimate questions remaining for future consideration.

Discussion on the exaction in 1780.

On the 6th of March, the Lord Chancellor proposed a motion in reference to several of the allegations in the Benares Charge, on all which he argued that criminality had been proved. Lord Thurlow objected to the departure from the course agreed to, of voting on each allegation separately, and moved—"That the Commons had made good the first Article, so far as it related to the war subsidy of 1780." The Earl of Carnarvon argued in support of the motion, but it was negatived on a division.

Division.

Discussion on the demand of cavalry.

On the 9th of March, Lord Thurlow opened the next part of the Charge, relating to the demand of cavalry in November 1780, and reviewed the whole of the evidence most minutely, arguing throughout in defence of Mr. Hastings. Lord Carnarvon and the Lord Chancellor supported the Charge; but the motion that the Commons had made good the Article in respect to the demand of cavalry from Cheyt Sing was negatived.

Division.

Sale of Cheyt Sing's provinces to the Wazir.

The next question moved by Lord Thurlow was in respect to the charge of conspiracy for the sale of Cheyt Sing's provinces to the Wazir; and the motion was negatived unanimously.

Unpunctuality of payment of tribute.

The motion which followed was to approve the Charge relating to the allegation by Mr. Hastings of Cheyt Sing's unpunctuality in the payment of his kists, in 1780. The

1795. Charge was again refuted by Lord Thurlow, and supported by the Lord Chancellor. The motion was negatived.

Arrest of Cheyt Sing.

On the 10th of March, Lord Thurlow moved the next question—"That the Commons had made good the first Article, in so far as it related to Mr. Hastings' preferring false and malicious charges against Cheyt Sing, and arresting his person." The circumstances and the evidence on either side were very elaborately discussed by Lord Thurlow himself, Lord Mansfield, the Marquess of Lansdowne and the Bishop of Rochester, in favour of Mr. Hastings, and by the Lord Chancellor and the Earl of Carnarvon in support of the motion; which, however, was negatived.

Remainder of the Benares Charge.

On the 13th of March, Lord Thurlow went through the evidence on the remainder of the Benares Charge, relating to the expulsion of Cheyt Sing, and the siege and plunder of Bidjey Gur, arguing in defence of Mr. Hastings, and moved—"That the Commons had made good the ten remaining allegations in the first Article." Lord Chancellor Loughborough argued in support of the Charge; but the motion was negatived.

Discussion on the Charge relating to the Begums.

The second Article of the Charge, relating to the Begums of Oude, was discussed under one motion, on the 16th and 17th of March, the House having first negatived a proposal of the Duke of Norfolk to report progress, and to proceed to a vote in their House on the first Article, as a whole, each Peer giving his verdict of guilty or not guilty. The Charge and defence on the second Article were discussed very minutely by Lord Thurlow and the Lord Chancellor; the Bishop of Rochester and the Earl of Morton supporting Lord Thurlow in Mr. Hastings' defence.

Division.

The motion was then put—"That the Commons had made good the charges in their second Article, respecting the Begums," and was negatived.

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Discussion on the Charge relating to Presents. Speech of Lord Thurlow.

On the 20th of March, the House proceeded to the consideration of the sixth Article, relating to corrupt presents. Lord Thurlow opened the discussion. He divided the Charge into what related to presents received by Mr. Hastings in the years 1772, 1773 and 1774, and those taken in the years 1780, 1781, 1782 and 1783. The presents received in the earlier period, and before the passing of the Act regulating the affairs of the Company, were stated to have been given as consideration for corrupt appointments to offices in Bengal, and by which Mr. Hastings added 100,000*l.* to his private fortune. With respect to the presents from the Rani Bowani and from Khan Jehan Khan, the faujdar of Hughly, there was no evidence to support the charge. The only remaining charge was that Mr. Hastings corruptly received three lacs and fifty-four thousand rupees, or nearly 40,000*l.*, from Nundcomar and Munny Begum, for appointing the son of the former diwan, and the latter guardian, of the Nawab of Bengal.

Lord Thurlow reminded the House that, when Lord Clive acquired for the Company the diwani of Bengal, in the year 1765, he instituted a double government, by committing to Mohamed Reza Khan the entire management of the revenues, and the administration of civil and criminal justice, under the title of Naib Subahdar. This system continued till the year 1772, but with results so unsatisfactory that the income received barely sufficed to meet the necessary expenditure. In April 1772, Mr. Hastings assumed the government of Bengal, and received orders to abolish the double government, and to establish a new system for collecting the revenues, by the agency of the Company's servants. The arrangements he formed were submitted to the inspection of Parliament, in 1773; and the approval of the Government was strongly expressed,

1795. by the appointment of Mr. Hastings as the first Governor General of Bengal, under the regulating Act of that year. The new Government commenced in Bengal, in October, 1774. Lord Thurlow proceeded to state the circumstances of Nundcomar's charges against Mr. Hastings, of which he acquitted him, on the judgment of the law officers of the Company, to whom the papers relating to them had been submitted. His Lordship then stated the circumstances relative to the ziafat, or present for entertainment, paid to Mr. Hastings from the treasury of the Nawab. This, he showed, was applied to Mr. Hastings' expenses while at Moorshedabad, and was the customary allowance received by previous Governors under similar circumstances. Finally, he considered the character of the Munny Begum, from Mr. Hastings' alleged partiality to whom the Managers had inferred a corrupt understanding between them. He went through her history, in order to clear her from the reflections of the Managers, and concluded by stating that, after Mr. Hastings' retirement, she received from Lord Cornwallis, on the ground of her own representations of her services, a pension of about 12,000*l.* a year.

Speech of Lord Loughborough.

The Lord Chancellor concurred in thinking that the Commons had failed in making good any part of their Charge, except the receipt of a lac and a half of rupees for entertainment at Moorshedabad. This present Mr. Hastings himself acknowledged, but there certainly was no proof of his having taken it as a consideration for a corrupt appointment to office. He added that he was induced to think that, if this Article had stood alone, the Commons would not have charged it; but that it was mixed with others, of which, under their Lordships' rules, no evidence could be given. In preference to a motion of Lord Thurlow's, he moved—"That the Commons had made good the sixth

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Article, as far as it related to a corrupt receipt of presents, in the years 1772, 1773 and 1774. This motion was put and negatived by a unanimous vote.

Division on the first part of the Charge.

The discussion on the Charge of presents was renewed on the 23d of March. Lord Thurlow explained that the remaining part of the Charge referred to presents of large amounts received by Mr. Hastings in and subsequently to the year 1780, for the use of the Company, as contended on his part, but, as imputed by the Managers, for his own use; though, as they said, he was subsequently induced by fear to apply them to the public service. He recapitulated the circumstances of the present taken by Mr. Hastings of Cheyt Sing, in 1780, and urged that, having declined it, when offered as a present to himself, he subsequently accepted it, in order to apply the sum to the carrying out an important act of policy, in which he was thwarted by the refusal of the Council of Calcutta to agree in furnishing the funds requisite for its execution. He next pointed out that Mr. Hastings had communicated the receipt of the present, for that purpose, to Mr. Markham, shortly after its receipt, as stated by that witness in his evidence before the Commons and referred to by him in Westminster Hall, and that he had subsequently communicated it to Mr. Sullivan. He dwelt on an expression used by Mr. Hastings, in a letter to Major Scott, in December, 1782, implying a belief that he had made him also acquainted with it at the time. He stated that a fourth communication of the present was made in a letter from Mr. Hastings to the court of Directors, dated the 29th of November, 1780. An intention of converting the money to his own use had been inferred from his paying it into the treasury as a deposit; but in this letter he expressly says—"The money was not my own; and I neither could nor would have received it but for your benefit." Lord Thurlow then stated the subject of the remaining

Discussion on the second part of the Charge.

Speech of Lord Thurlow.

1795. portion of the letter of the 29th of November, which was, to explain the importance of Mr. Hastings' object in sending money to Mudaji Bosla, commander of the Berar army, and which mentioned his having taken bonds for that portion of the amount raised from his own funds. He then related the history of the bonds; and reviewed Mr. Hastings' explanations respecting the presents to the Directors, in his letters from Calcutta of the 22d of May and 16th of December, 1782, and from Cheltenham in June, 1784; concluding his observations on them by stating that "though the subject of the presents has taken up so many years in the discussion, the Managers have never been able, to this moment, to procure a tittle of evidence beyond what Mr. Hastings himself has furnished them with;" and that when Mr. Hastings, in his letter of the 16th of December, 1782, told the Directors that, if he had had a wrong motive, he could have concealed the receipt of the presents from the public eye for ever, he believed the assertion to be strictly true. After exculpating Mr. Hastings from any intention of deceit in reference to his misstatement on the subject of the date of indorsement of the bonds, he dwelt on the substance of Mr. Larkins' evidence, as being favourable to Mr. Hastings, and concluded with the motion —"That the Commons had made good the sixth Article, in so far as related to the sum of two lacs of rupees, corruptly received from Sadanund, the buxey of Raja Cheyt Sing."

Speech of Lord Loughborough.

Lord Chancellor Loughborough began a very long speech on the opposite side of the discussion, by laying down the principle, that, independently of the Act of Parliament of 1773, a President of Council or Governor General, in taking a present from a person connected with or dependent on him, committed a crime, by the common law of England; as also, in like manner, to give or accept a bribe was a crime at common law. Mr. Hastings had received various sums

from different persons, which having been given to procure general favour, the acceptance of them was highly criminal. His Lordship proceeded to examine the circumstances of the receipt of each present. That received from Cheyt Sing Mr. Hastings deposited in the hands of the Company's sub-treasurer, where it remained for years, unapplied to the public service. The letter of Mr. Hastings to the Directors of the 29th of November, 1780, in explanation of the transaction, was evasive and unsatisfactory. He argued from the letter of Mr. Larkins to the Chairman of the Company, of the 5th of August, 1786, relative to the bond No. 89, taken by Mr. Hastings of the Company, that Mr. Hastings had by no means made out that part of his defence, relative to this transaction, which he had made before the House of Commons. Upon the whole, his Lordship said, regarding the present from Cheyt Sing from every point of view, he thought that Mr. Hastings could not stand excused on any pretext of reason or justice, but that he had been convicted in the clearest manner of the crime alleged by the Commons. 1795.

Lord Loughborough next discussed the allegation respecting the present of ten lacs of rupees from the Nawab. After enlarging upon each particular of the Charge, he contended that, taking the account as favourably for Mr. Hastings as possible, there remained a sum of not less than one lac and a half of rupees as yet wholly unaccounted for. Having dilated much at length on every part of the Charge relative to the Dinagepore peshcush, and the transactions of Mr. Hastings with Kelleram, with respect to which he contended that a small portion only of the sums received had been accounted for, his Lordship went minutely into the Charge relating to the present from Nobkissin, and declared that it appeared to him that not a shadow of excuse could be pleaded in palliation even, much less in defence of,

1795. conduct so open to the imputation of corruption as that of Mr. Hastings, in this instance.

Speech of the Earl of Mansfield.

The Earl of Mansfield said that, according to his construction of the law, Mr. Hastings had broken it in every instance charged of receiving presents; but he considered that the circumstances of his situation justified him in every case, excepting that of the present from Nobkissin. He received them with the express determination of applying them to the public service: they certainly were so appropriated; and the numerous contradictions in the accounts seemed to proceed from excessive carelessness, not from guilt. But as to the present from Nobkissin, it stood on different grounds. There was no state necessity pleaded for this breach of the law. The money, though taken for the Company, was appropriated to discharge a demand made by Mr. Hastings on the Company. He lamented that there should be a single point in which he could not acquit Mr. Hastings, for no man had a higher opinion of the services he had rendered his country; and, when he considered the many hardships he had suffered since his return from India, as well from the circumstances as from the extreme length of the arduous trial he had undergone, and the calm dignity and composure with which he had sustained what no man had ever borne before him, he felt himself strongly inclined to put the most favourable construction on all his actions.

Reply of Lord Thurlow.

Lord Thurlow replied that he was ready to stake all his credit as a lawyer, or his integrity as a man, on the question propounded by the Lord Chancellor. He differed from him completely in the doctrine he laid down, that the receipt of a present by a person in the situation of Mr. Hastings must be corrupt, and that it was not necessary to charge it to be a bribe in the impeachment, because the person giving the present could only give it with a hope of procuring general

favour. The Commons, to show corruption, ought to have charged some act done by Mr. Hastings in favour of the several persons from whom the sums were received. He again went over the circumstances of the Benares present, with a view to correct the statements of Lord Loughborough. 1795.

After a short answer from the Lord Chancellor, and a promise by Lord Thurlow to discuss the question of law in dispute between them at their next meeting, the Earl of Carnarvon rose. He declared that he considered the arguments of Lord Loughborough irresistible; and, after going over the particulars of the several parts of the Charge, concluded with saying that, in his opinion, had Mr. Hastings wished to conceal all the presents he had taken, he could not have used more art, or exercised more skilful cunning to provide against detection, than he had used in every instance of receiving presents. He therefore believed him guilty of the Charge.

Speech of the Earl of Carnarvon.

The Bishop of Rochester saw nothing in the evidence to induce him to believe that Mr. Hastings had been actuated by bad or corrupt motives, and he fully concurred in all the reasoning of Lord Thurlow.

The Bishop of Rochester.

On the 24th of March, Lord Thurlow resumed the discussion on the Charge of presents, by an argument against the principle of law laid down by Lord Loughborough, that, at common law, the receiving of presents by a person in Mr. Hastings' position from his inferiors was a crime for which an indictment would lie. He then very minutely examined the evidence on the parts of the Charge which he had not noticed in his previous speech, concluding, with respect to the presents from Kelleram and Cullian Sing, from Nundulol and the Nawab Wazir, that they were all of the same description—that they had been received for the Company, and faithfully applied to their service, and that Mr. Hastings had never the intention to appropriate them

Further observations of Lord Thurlow.

1795. to his own use. He then entered into the circumstances of Nobkissin's present, which so far differed from the other cases charged against the Defendant, that it was admitted by himself to have been applied to his own convenience, by being retained as a set-off against expenses incurred by him on behalf of the Company. After going through all the particulars of the transaction, his Lordship argued that criminality could only be established by proving that the charges for the liquidation of which this money was retained were fictitious. That they were not so, was evident by their not having been objected to by the court of Directors. Mr. Hastings had left it to them to allow them or not. By not disallowing them, or even calling for vouchers, or further information respecting them, they admitted the demands to be perfectly fair and reasonable; and, in effect, they audited the accounts. On the whole, it was impossible to consider these presents as bribes. It was for each member of the House to satisfy himself from the evidence whether or not Mr. Hastings, in accepting them, had any intention of appropriating them to his own use, or did not, as alleged by him, *bonâ fide*, apply them to the Company's service. With regard to the assertion that the mere acceptance of them was a breach of the law, he had no hesitation in affirming that the clause in the Act of 1773, by which any receipt of presents was prohibited, had been repealed by the Act of January, 1787; therefore, if their Lordships were of opinion that Mr. Hastings had intended, in receiving the presents, to apply them to the public service, he must be acquitted.

Reply of Lord Loughborough.

After a short reply by the Lord Chancellor, who argued that, according to the statements to be collected from the evidence, and from the defence of Mr. Hastings, it did not appear that the whole of the money received from Kelleram and Cullian Sing, from Nundulol, and from the province of Dinagepore, had been accounted for by the Defendant, the

1795.

Division respecting the present from Kelleram;

question was put—"That the Commons have made good the sixth Article, in so far as relates to a present or obligation received from Kelleram for four lacs of rupees;" when the non-contents were declared the majority.

and from Nundulol.

The following question respecting the money received from Nundulol was immediately put; and was also negatived.

Observation of Lord Loughborough on Mr. Hastings' durbar charges.

Lord Thurlow then moved the third question, on the subject of the present from the Nawab Wazir. The Lord Chancellor stated that he had already discussed the evidence on this charge, on a previous occasion; he would, therefore, only now reply to Lord Thurlow's statement respecting Mr. Hastings' durbar charges. It appeared to him that a balance of nearly a lac and a half was still unaccounted for, and that the account was not sent over till October, 1783. It was clear that, up to that time, Mr. Hastings had the money in his hands; and, for aught that appeared, he had it at that moment.

Speech of the Archbishop of York.

After a further explanation on this subject by Lord Thurlow, the Archbishop of York made some observations on the general character of the impeachment. He said that the present conversation reminded him of the case of Cato the Censor. "That great man, after having filled the first offices in the state, with the highest reputation, was impeached. He was impeached forty times, and was attacked by a factious demagogue of his day relative to the *items* of an account. What was the case of Mr. Hastings? No consideration for his high character, no consideration for his splendid and important services—for the esteem, love and veneration, in which he was held by the millions that he governed for so many years! No; he is treated, not as if he were a gentlemen whose cause is before you, but as if you were trying a horse-stealer."

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Division on the Charge relating to the present from the Wazir.

After a few observations in reply by the Lord Chancellor, the question was called for, and negatived.

Division on the remainder of the Charge.

The question was then put on the remainder of the sixth Article. The Bishop of Rochester made some observations in justification of Mr. Hastings; and, on a division, the non-contents were in the majority.

Speech of Lord Thurlow on the Charge relating to contracts.

On the 31st of March, Lord Thurlow went over the whole of the case on the fourth Article of the impeachment, relating to contracts and allowances, under the separate heads of the opium contract, the bullock contract, the extra allowances to Sir Eyre Coote, Mr. Auriol's agency for supplying provisions for Fort St. George, and Mr. Belli's agency for provisions for Fort William. In commenting on the evidence on each of the allegations of the charge, his Lordship vindicated the conduct of Mr. Hastings.

Speech of the Bishop of Rochester.

He was followed by the Bishop of Rochester, who discussed particularly the part of the charge relating to the opium contract, as containing the only one of the five allegations in the Article, on which, he said, the smallest degree of doubt existed in his mind. He contended that there was no proof that Mr. Hastings knew anything of the transactions between the several contractors, Sullivan, Benn and Young; and that there was no crime charged which could be properly cognisable by impeachment. It was rather a matter between Mr. Hastings and the East India Company.

Earl of Carnarvon.

The Earl of Carnarvon argued that the not advertising a contract or putting it to public auction was a breach of the standing orders of the Directors. He animadverted on the concession of the contract for opium to Mr. Sullivan, who was totally inexperienced in business, and had no knowledge of the subject of his contract, and who immediately disposed of it, at a considerable profit, to Mr. Benn; and he

charged Mr. Hastings with having dishonoured the British government in India, by lending his countenance to the smuggling trade which he suffered to be carried on in opium, against the strict enactments of the Chinese Government. 1795.

The Earl of Mansfield stated that, having been too much employed to look minutely into the evidence on the different contracts, he suspended his judgment on them. With regard, however, to the extra allowances granted to Sir Eyre Coote, he conceived the conduct of Mr. Hastings to be not only justifiable but strictly meritorious. Earl of Mansfield.

Lord Loughborough said that, in every instance except that of the bullock contract—but which was too high—the evidence clearly proved that the Defendant had acted profusely and improvidently, as well as contrary to the express orders of the Directors. He was of opinion, therefore, that the Commons had made good their charge. Lord Loughborough.

Motions were put on the several allegations in the Charge, the divisions being all in favour of the non-contents. Division on the Charge relating to contracts.

It was finally moved and negatived that the Commons had made good the remainder of the impeachment; and the resolutions were read over and ordered to be reported on. Division on the remainder of the impeachment.

The Report was presented to the House, on the 13th of April, by Lord Walsingham, the Chairman of the Committee, who, having been debarred the privilege of joining in the discussion on the resolutions, by reason of his office, now delivered himself at length of his opinion on the merits of the several Charges. When he had ceased speaking, Lord Thurlow moved that the several resolutions agreed to in Committee should be voted on *seriatim* by the House. This course was objected to by Lord Loughborough, the Earl of Carnarvon, and the Earl of Lauderdale, as unnecessarily pledging the House, and exposing it to the possible risk of affirming any of the questions in one way in their chamber and in another in Westminster Hall. Lord Presentation of the Report. Speech of the Chairman, Lord Walsingham. Proposal of Lord Thurlow to vote on each of the resolutions *seriatim*. Objected to.

1795. Thurlow's proposition was rejected on a division, and the resolutions were agreed to.

Resolutions agreed to.

Form of giving judgment.

On the 17th of April, the House of Lords took into consideration the order to be followed in Westminster Hall, in giving their verdict on the several Charges; and it was agreed that, on each of the two first Articles, a single verdict would suffice; but that distinct questions should be put on the six allegations contained in the sixth Article, relating to presents, and seven distinct questions should be put on the fourth Article, relating to contracts.*

Adjournment to Westminster Hall.

On the 23rd of April, after a discussion on the form of putting the several questions, the House of Lords was adjourned into Westminster Hall.

Proclamation having been made in the usual way, Mr. Hastings and his bail were called into court. Mr. Hastings having knelt, and been directed to rise, was ordered to withdraw.

Votes on the verdict.

The Lord Chanceller then rose, and said, "Your Lordships, having fully heard and considered of the evidence and arguments in this case, have agreed upon several questions, which are severally to be stated to your Lordships in the usual manner."

The Peers who had been created or had succeeded to their titles since the commencement of the trial, as well as others, from motives of their own, abstained from voting

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* The proceedings in the House of Lords, of this session, on the subject of the impeachment, are not recorded in the "Parliamentary History." They are reported in a volume intitled "Debates of the House of Lords on the Evidence delivered on the Trial of Warren Hastings, Esquire; Proceedings of the East India Company, in consequence of his Acquittal; and Testimonials of the British and Native Inhabitants of India, relative to his Character and Conduct whilst he was Governor General of Fort William, in Bengal." 4to. 1797. Debrett. It was compiled and distributed under Mr. Hastings' directions, and at his expense, but not published. The contents, however, are given, almost *verbatim*, in the "History of the Trial;" Part viii. See Mill's "History of India;" ed. Wilson; Vol. v., p. 273, *note*.

on the verdict, and stood unrobed about the throne, as spectators of the solemnity. To those who had taken their seats, in their robes, the Lord Chancellor addressed the first questions—"Is Warren Hastings, Esq., guilty or not guilty of high crimes and misdemeanours, charged by the Commons in the first Article of Charge?" Then, putting the question to each, in order, beginning with the junior Peer, he said, "George, Lord Douglas, Earl of Morton in Scotland, how says your Lordship? Is Warren Hastings, Esq., guilty or not guilty of the said charge?"

1795.

Votes on the verdict.

Whereupon, Lord Douglas stood up, uncovered, and, laying his right hand on his breast, pronounced—"Not guilty, upon my honour."

"James, Lord Fife, how says your Lordship?" "Not guilty, upon my honour."

In the same form the question was put to the other Peers in robes, and their verdicts given, in the following order:—Lord Sommers, "Not guilty;" Lord Rawdon, Earl of Moira in Ireland, "Not guilty;" Lord Walsingham, "Not guilty;" Lord Thurlow, "Not guilty;" Lord Hawke, "Not guilty;" Lord Boston, "Not guilty;" Lord Sandys, "Not guilty;" Lord Middleton, "Not guilty;" Dr. Horsley, Bishop of Rochester, "Not guilty;" Dr. Warren, Bishop of Bangor, "Not guilty;" Viscount Sidney, "Not guilty;" Earl of Carnarvon, "Guilty;" Earl of Dorchester, "Not guilty;" Earl of Beverley, "Not guilty;" Earl of Radnor, "Guilty;" Earl Fitzwilliam, "Guilty;" Earl of Warwick, "Not guilty;" Earl of Coventry, "Not guilty;" Earl of Suffolk, "Guilty;" Marquess Townshend, "Not Guilty;" Duke of Bridgewater, "Not Guilty;" Duke of Leeds, "Not guilty;" Duke of Norfolk, "Guilty;" Earl of Mansfield, "Not guilty;" Dr. Markham, Archbishop of York, "Not guilty." The Lord Chancellor, Lord Loughborough, pronounced his own verdict of "Guilty."

1795. Upon the remaining fifteen questions, the Peers voted in the following manner:—

Votes on the verdict.

2d Question: the second Article of the Charge:—"Guilty," 6. "Not guilty," 23.

3d Question: the sixth Article: Charge of taking presents in the years 1772, 1773 and 1774:—"Not guilty," 26.

4th Question: the same Article: Charge of taking a present from Sadanund, the Buxey of the Raja Cheyt Sing:—"Guilty," 4. "Not guilty," 23.

5th Question: the same Article: Charge of taking a present from Kelleram and Cullian Sing:—"Guilty," 3. "Not guilty," 23.

6th Question: the same Article: Charge of taking a present from Nundulol:—"Guilty," 3. "Not guilty," 23.

7th Question: the same Article: Charge of taking a present from the Nawab Wazir of Oude:—"Guilty," 3. "Not guilty," 23.

8th Question: the same Article: Charge of taking a present from Raja Nobkissin:—"Guilty," 5. "Not Guilty," 20.

9th Question: the fourth Article: Charge of granting a contract for provision of opium to Stephen Sullivan, Esq., upon extravagant terms:—"Guilty," 5. "Not Guilty," 19.

10th Question: the same Article: Charge of engaging the Company in a smuggling adventure to China:—"Not guilty," 25.

11th Question: the same Article: Charge of granting a contract for bullocks to Charles Croftes, Esq., corruptly:—"Guilty," 3. "Not guilty," 23.

12th Question: the same Article: Charge of granting the provision of bullocks by the mode of agency:—"Guilty," 3. "Not guilty," 23.

13th Question: the same Article: Charge relating to the allowances granted to Sir Eyre Coote:—"Guilty," 4. "Not guilty," 22.

14th Question: the same Article: Charge relating to the appointment of James Peter Auriol, Esq., to be agent for the purchase of supplies for the Madras Presidency:—"Guilty, 4." "Not guilty," 22. 1795.

Votes on the verdict.

15th Question: the same Article: Charge relating to the appointment of John Belli, Esq., to be agent for the supply of provisions for Fort William:—"Guilty," 3. "Not guilty," 23.

16th Question: the residue of the impeachment:—"Guilty," 2. "Not guilty," 25.

The names of the Peers who gave the votes of guilty were as follow:—

Names of Peers voting guilty.

Lord Loughborough, Lord Chancellor, voted "Guilty" on all the questions, except the 3d, the 10th and the 16th.

The Earl of Carnarvon, "Guilty" on all the questions, except the 3d and the 10th.

The Earl of Radnor, "Guilty" on the 1st, 2d, 8th, 9th, 13th and 14th, questions.

Earl Fitzwilliam, "Guilty" on all the questions, except the 3d and 10th.

The Earl of Suffolk, "Guilty" on the 1st, 2d and 4th, questions.

The Earl of Mansfield, "Guilty" on the 8th question.

The Lord Chancellor then addressed the Court in these words:—"I am to inform your Lordships that a majority of your Lordships have, upon each of the questions, found Warren Hastings not guilty. I have, therefore, in consequence of your Lordships' directions, only now to declare Warren Hastings, Esq., is acquitted of the Articles of the impeachment exhibited against him, and all the things contained therein."

Acquittal of Mr. Hastings.

Mr. Hastings was then brought to the bar, where he knelt, but was bidden to rise. The Lord Chancellor immediately addressed him as follows:—"Warren Hastings, Esq., I am to acquaint you that you are acquitted of the Articles

1795. of impeachment exhibited against you by the House of Commons, and of all things contained therein; and you are discharged, paying your fees."*

Acquittal of Mr. Hastings.

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* It is impossible to record this termination of the trial without referring to the effect of the verdict on the principle mover of the impeachment. The result had been long foreseen. As early as the beginning of the year 1789, Fox had declared his opinion of the hopelessness of obtaining a conviction. But the ardour of Burke suffered no abatement, and the sincerity of his own belief in the truth of the charges probably made him incredulous of eventual failure. He was deeply mortified by the verdict. He resented the obstructions he considered to have been placed in his way in pressing the evidence of the Charges in Westminster Hall; and after the struggle was over, and the acquittal declared, he turned his thoughts to the means of appealing to future ages against the equity of the judgment. With this view, he nursed the project of composing a complete history of the proceedings. But, again, he was doomed to disappointment. A species of torpor succeeded to the great excitement his public life had sustained in him, and he soon became conscious that he had no longer the strength requisite for this last effort in the cause he had so much at heart. Still he clung to his design, which, if he was unable to realise it by his own exertions, he trusted to engage the assistance of others to accomplish for him. He pressed this task, with the utmost solicitude, on Dr. French Lawrence, the most intimate and trusted of his friends, and who had acted as one of the two assisting Counsel for the Managers during the trial. The following extract from a letter he addressed to him, not many months before his death, exhibits the intensity of his wish to secure the fulfilment of his design: —

"As it is possible that my stay on this side of the grave may be yet shorter than I compute it, let me now beg you to call to your recollection the solemn charge and trust I gave you, on my departure from the public stage. I fancy I must make you the sole operator, in a work in which, even if I were enabled to undertake it, you must have been ever the assistance on which alone I could rely. Let not this cruel, daring, unexampled, act of public corruption, guilt and meanness, go down to posterity, perhaps as careless as the present race, without its due animadversion, which will be best found in its own acts and monuments. Let my endeavours to save the nation from that shame and guilt be my monument; the only one I will ever have. Let everything I have done, said or written, be forgotten, but this. I have struggled with the great and the little on this point, during the greater part of my active life; and I wish, after death, to have my defiance [recorded] of the judgments of those who consider the dominion of the glorious empire given by an incomprehensible dispensation of the Divine Providence into our hands as nothing more than an opportunity of gratifying, for the lowest of their purposes, the lowest of their passions—and that for such poor rewards, and, for the most part, indirect and silly bribes, as indicate even more the folly than the corruption of these infamous and contemptible wretches.

"I blame myself exceedingly for not having employed the last year in this work, and beg forgiveness of God for such a neglect. I had strength enough for it, if I had not wasted some of it in compromising grief with drowsiness

The Lords immediately adjourned to their chamber of Parliament. 1795.

It will have been observed that only twenty-six Peers voted on the verdict. The reason was twofold: First, because only a small proportion of the whole House had attended the proceedings. The historian of the trial states that "the greatest number of Lords that sat at any time on this trial was one hundred and sixty-eight; but this number only assembled on Mr. Burke's opening speech, Mr. Sheridan's summary of the Begums, or on some extraordinary occasion. In general, the Court consisted of from thirty to fifty Lords." Secondly, in addition to the indifference of many of the Peers to the proceedings, it is stated, by the same authority, that no fewer than ninety-three changes had taken place in the members of the House of Lords since the opening of the trial; viz., forty-nine successions by descent in place of Peers deceased, and forty-four new creations, new Bishops, and new Scotch Peers. The effect of time was similarly shown in respect to the Managers. Nine of the twenty originally appointed had been replaced.*

Smallness of number of Peers voting on the verdict.

Changes in the Peerage during the trial.

and forgetfulness, and employing some of the moments in which I have been roused to mental exertion in feeble endeavours to rescue this dull and thoughtless people from the punishments which their neglect and stupidity will bring upon them, for their systematic iniquity and oppression. But you are made to continue all that is good of me, and to augment it with the various resources of a mind fertile in virtues, and cultivated with every sort of talent and of knowledge. Above all, make out the cruelty of this pretended acquittal, but in reality this barbarous and inhuman condemnation of whole tribes and nations, and of all the classes they contain. If ever Europe recovers its civilization that work will be useful. Remember! Remember! Remember!"

"Dated the 20th of July, 1796. "Correspondence with Dr. Lawrence," 8vo., 1827, p. 53.

* The most noteworthy of the absences from the verdict, and the most to be regretted, was that of Earl Stanhope. From the commencement of the proceedings till the end of May 1794 he had never failed in his attendance, nor suffered himself to be absent for an hour. He had taken notes of the evidence, and had always shown candour and impartiality in dealing with the

1795.

Cost of the proceedings on the side of the prosecution.

Some curiosity may be felt to learn at what cost to the public purse proceedings of such solemnity and on so grand a scale were carried through. We are able to meet the inquiry by an epitome of the account of the solicitors to the Managers, audited on the 12th of January, 1814, and now reposited among the Exchequer Records. The total charge of Mr. Troward, the solicitor to the Managers, was 61,695*l.*, of which amount a sum of 16,996*l.* was disallowed by the examiners appointed by the Lords of the Treasury to investigate the account, leaving a balance of 44,698*l.*; to which was added a further sum of 1,858*l.*, as interest on the balance, which had remained due on the first settlement of the account, on the 25th of May, 1795, up to the date of the audit.*

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difficult questions frequently arising during the course of the trial. But, in consequence of the suspension of the Habeas Corpus Act, the Bill for which passed at the period above mentioned, he declined further attendance, on the ground that the Courts of Justice had lost their dignity.

* The following is extracted from the abstract of the Account presented to the Treasury by the Commissioners for Auditing Public Accounts :—

" An abstract of the Account, duly attested, of Richard Troward, Esquire, of monies received and disbursed for carrying on the Impeachment of Warren Hastings, Esquire, before the House of Lords, pursuant to orders of the Commons House of Parliament, between the 1st March, 1787, and 23d April, 1795; which said Account having been examined and audited by us, Commissioners for Auditing the Public Accounts, and a statement thereof approved by warrant of the Lords Commissioners of His Majesty's Treasury, dated the 12th day of January, 1814, was declared before the Lords Commissioners of the Treasury, the 4th day of February, 1814.

" The Accountant is allowed the following sums:—

	£	s.	d.
" *Attendances.*—Charges for his attendance at consultations with the Managers, for his attendances at the House of Lords, and on other occasions, from March, 1787, to 28th August, 1794. In all, for attendances, (whereof is surcharged 2,027*l.* 12*s.* 6*d.*) - -	5,988	7	8
" *Fees to Counsel and their Clerks.*—Charges for fees to Counsel and their Clerks who were employed during the trial of Warren Hastings, Esquire, from March 1787, to 28th August, 1794. In all, for fees to Counsel and their Clerks (whereof is surcharged 6*l.* 5*s.*) -	10,585	0	2

If the costs on the side of the Prosecution, the principal 1795.
conductors of which gave their services gratuitously, were so

Mr. Hastings' costs.

	£	s.	d.
"*Fees at the Exchequer and Treasury.*—Charged for fees paid on monies received by the Accountant at the Exchequer, between March, 1787, and 28th August, 1794. In all, for fees at the Exchequer and Treasury (whereof is surcharged 722*l.* 4*s.* 3*d.*) - -	2,817	15	9
"*Other Payments.*—Paid to Mr. Gurney, the short-hand writer, for taking minutes of the evidence at the trial, &c.; paid to printers and bookbinders for work done; paid expenses for removing records and other papers from the East India House; paid to the Officers of the House of Lords, the House of Commons, and the East India House, for divers expenses incurred by them, and for gratuities to the same for their trouble, and for serving orders on witnesses, and for the attendance of witnesses at the House of Lords, porterage, and other incidental expenses, amounting, between March, 1787, and 28th August, 1794, in all, for other payments (whereof is surcharged 582*l.* 15*s.*)	9,460	16	2
"*Drawing Briefs.*—Charges for drawing briefs in the several matters proceeded on in the trial, between March, 1787, and 28th August, 1794. In all, for drawing briefs (whereof is surcharged 3,826*l.* 0*s.* 12*d.*) -	6,765	17	2
"*Copies of Briefs.*—Charges for making copies of briefs, between March, 1787, and 28th August, 1794. In all, for making copies of briefs (whereof is surcharged 4,411*l.* 15*s.* 8*d.*) - - - - -	11,985	4	8
"*Drawing other Papers.*—Charges for drawing other papers, between March, 1787, and 28th August, 1794. In all, for drawing other papers (whereof is surcharged 41*l.* 16*s.* 4*d.*) - - - -	1,192	6	8
"*Copies of other Papers.*—Charges for making copies, between March, 1787, and 28th August, 1790. In all, for making copies of the last-mentioned papers, (whereof is surcharged 3,706*l.* 7*s.* 7*d.*) - -	5,443	16	2
"*Contingencies.*—Money claimed for examining, revising and correcting, the Accountant's own work; for examining short-hand writer's minutes of evidence; for perusing and examining minutes of the sessions; perusing and examining Parliamentary records, and making extracts thereof; perusing Reports of the Committee of the House of Commons, and herein surcharged, amounting, between March, 1787, and and 21st August, 1794, in all, for contingencies (whereof is surcharged 1,239*l.* 7*s.*) - - -	1,562	17	8

1795. heavy, it may be easily inferred that those on the part of the Defendant were not trifling. And if they had fallen on Mr. Hastings' unaided resources, the object of his prosecutors would have been gained, in so far as his ruin would have been effected. But the East India Company, who

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				£	s.	d.
"In all, the sums charged by this Accountant, the sum of (including 16,242*l*, 0*s*. 1*d*. surcharged) - -				55,802	2	1
"The Accountant is allowed the following sums, viz:—						
"For compensation for articles undercharged, and in lieu of a sum of 75*l*. *per annum*, charged for coach hire and incidental expenses, the sum of - - -				327	2	0
"Deducted by mistake - - - - - -				52	10	0
"For his attendances; for fees paid; for sundry payments; for drawing briefs; also for his extraordinary trouble in drawing the briefs in the Benares Charge, the Charge for Presents and the Charge for Contracts, over and above the usual trouble required in drawing briefs, 350*l*.; also for copies of the briefs; for drawing other papers; for making copies of the same; in examining and correcting the chronological list of documents (including 32*l*. 11*s*. surcharged) - -				2,585	4	5
"For fees paid by the Accountant on the sum of 1,824*l*. 11*s*. 6*d*., imprested to him from His Majesty's Exchequer, between Michaelmas, 1787, and Michaelmas, 1788, but for which he has not taken credit in his account current - - - - - -				99	7	6
"Allowance, at the rate of 362*l*. a year, for rent of house and furniture, and wages for servants, for 6 years and 257 days, provided for the use of the Managers of the Impeachment -	2,426	17	9			
"An allowance for coals, at the rate of 12 chaldrons a year, at 2*l*. 10*s*. per chaldron, for the same period -	201	2	5½			
"An allowance for incidental expenses, viz., candles and other small articles, during the same period, at 30*l*. *per annum* - - - - -	201	2	5½			
"In all, for the above allowances of house rent, wages of servants, coals, and incidental expenses, appears the sum of - - - - -				2,829	2	8
"Total discharge (including surcharges) -				£61,695	8	8"

could not be insensible at least to the promotion of their material prosperity, effected by Mr. Hastings in his long and arduous labours in their service as Governor General of India, showed no backwardness to relieve him from the effects produced by the struggle he had passed through on the fortune he had secured for himself during his tenure of office. Immediately on the close of the trial, a general court of the proprietors was assembled, to take into consideration his services, and to award him suitable recompence. It was resolved that he should be indemnified for the legal expenses incurred by him in his defence, estimated at 71,080*l.*, and that an annuity of 5,000*l.* should be granted to him. The first part of the resolution was referred to the decision of a ballot, on the 2d of June, 1795, and was affirmed by 554 votes against 254; and the latter, on the following day, by 508 votes against 220. Objections raised by the Board of Control as to the legality of these grants occasioned a slight modification of them, as well as a delay of some months in carrying them into execution: but on the 2d of March, 1796, the Chairman announced to the general court that a resolution of the court of Directors granting to Mr. Hastings an annuity of 4,000*l.* for the period of twenty-eight years and a half, to commence from

1795.

the East India Company.

Grant of annuity to him.

	£	s.	d.
"The Accountant is allowed the following sum in consideration of the long period the Account has been depending, and that there was a balance due to the Accountant, on the 20th May, 1795, of the sum of 3,265*l.* 12*s.* 2*d.*, and that no issue was made to him in reduction of this balance till the 3d June, 1812, and that no allowance for interest thereon has been made to the Accountant, pursuant to Warrant of Declaration of the Lords Commissioners of His Majesty's Treasury, bearing date the 12th January, 1814 - - - -	1,858	3	$9\frac{3}{4}$

"Public Record Office,
"Exchequer, No. 273, General Accounts.
"Pipe Office, Miscellanea."

1795. June 24th, 1785, and payable for that period to his heirs and executors, had been confirmed by the Board of Control. The liquidation of the debt incurred by the costs of his defence was effected by a loan from the Company, free of interest, of fifty thousand pounds, assisted by the first payment of forty-two thousand pounds, on account of his pension.*

The speeches contained in the present volume have been printed from Gurney's reports, in their unrevised form. Mr. Burke's general reply has had the additional advantage of collation with the revised edition of it, printed with his collected works. The differences between the two texts are considerable, though not so numerous or important as in the case of his first speech, in opening the prosecution.

* A few words respecting Mr. Hastings' history, subsequent to his trial, will not, I trust, be considered out of place. Though never called from his retirement at Daylesford, to fill any public office, he may be said to have outlived the odium which the censure of the Commons by a vote of impeachment had brought upon him. He records, in his diary, the failure of an attempt to obtain the honour of the Peerage, which he had solicited from the Prince Regent, in a personal interview, on the 14th of March 1806. In the year 1813, on occasion of discussions in Parliament on the renewal of the East India Company's charter, Mr. Hastiugs was summoued to give information to either House on Indian affairs. Thus, at the age of eighty-one, he again appeared iu the presence of those assemblies before which he had once knelt in the character of a prisoner accused of crimes against the State. But he was now received with uuusual marks of respect. He was listened to with marked attention; and the Members of the House of Commons rose spontaneously and stood uncovered and in silence while he retired from their chamber. Shortly after this event, the honorary degree of Doctor of Laws was conferred on him by the University of Oxford. On the 5th of May, in the following year, he was appointed a Privy Councillor. When the Allied Sovereigns were in England, Mr. Hastings was specially invited to meet them at Oxford, and was subsequently presented to the Emperor of Russia and the the King of Prussia by the Prince Regent, at the public banquet in Guildhall. He died on the 22d of August 1818, in the eighty-ninth year of his age.

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THE END,

SPEECHES

IN THE

TRIAL OF WARREN HASTINGS, ESQ.

SPEECH OF CHARLES GREY, ESQ., MANAGER FOR THE HOUSE OF COMMONS, IN REPLY ON THE FIRST ARTICLE OF THE CHARGE, RELATING TO BENARES; 8 MAY, 1794.

8 MAY 1794.

Review of evidence respecting the first Article of Charge.

MY LORDS,—The Managers for the Commons having now closed the evidence which they thought it necessary to adduce in reply to the defence of the prisoner, it becomes my duty to offer such observations upon the whole of the evidence respecting the first Article of Charge as it may appear to me to be necessary to call your Lordships' attention to.

My Lords, in the performance of a task of much labour and of equal tediousness, I feel how little any claim which I can personally offer must appear to be deserving of your Lordships' consideration. The only claim I can have to attention, in the statement of a dry and complicated case, must rest in the importance of the cause itself, and in the solicitude your Lordships must feel to obtain any aid, however inconsiderable, that may assist your decision in the weighty and serious judgment which you will soon be called upon to pronounce.

My Lords, I will not, therefore, take up any more of your Lordships' time in any exordium, in a case where nothing more than your Lordships' own feelings can be requisite to impress you with a sense of the importance and solemnity of the occasion. Every attempt at ornament and embellishment,

8 May 1794. were I qualified to use them, I should on the present occasion sacrifice to what I think of infinitely greater importance—a clear and unaffected and, as far as the nature of the case will admit, a concise statement of such observations as I shall think material to the principal points of this Charge.

With this view, therefore, I shall pass over cursorily those introductory parts of the Charge which are only stated historically in order to introduce your Lordships to a knowledge of those points upon which the question turns, but which are not immediately material to the decision of the question itself. Of this nature, my Lords, I consider what is stated with regard to the services of Bulwant Sing: and I should not waste one single moment of your Lordships' time in endeavouring to show that what is stated in the Article upon that subject is true, were it not that the learned Counsel on the other side have thought it necessary to use much argument, and to produce some evidence, in order to contradict that statement. I shall not, however, follow them into the argument or the evidence which they have produced, with regard to the nature of those services which have been stated to have been rendered to the English Government by Bulwant Sing in 1764. I shall only support what is stated in the Charge—that, in the opinion of the Directors of the East India Company, he had been of signal service to the affairs and interests of Great Britain. And for this purpose I shall refer your Lordships, in the first place, to the 11th page of the printed Minutes; in which, in a letter from the Directors, it is stated that—

Services of Bulwant Sing.

> "Bulwant Sing joining us at the time he did was of signal service, and the stipulation in his favour was what he was justly entitled to."

And to the 37th page of the printed Minutes; in which it is stated, in a letter from the Council to the Honourable Warren Hastings, Esq., that—

> "We empower you to renew, in behalf of the Rajah Cheit Sing, the stipulation which was made formerly with the Vizier in favour of his father, Rajah Bulwant Sing, in consideration of his services to the Company in the year 1764."

It appears to me to be sufficient to state this, in answer to all the evidence that has been produced upon the subject by the learned Counsel, as a full confirmation of what we have stated. Then, in the opinion of the Court of Directors, the

services of Bulwant Sing had been of material assistance to the affairs of the Company. That is an opinion which they pronounced, after a review and examination of all the circumstances upon which the Counsel now found a charge of treachery and disaffection against the late Raja of Benares. 8 May 1794.

Disposing, therefore, of the dispute on the subject of the services of Bulwant Sing, I shall proceed now shortly to examine of what nature were the rights which were possessed, in the first place, by Bulwant Sing, and to which Cheyt Sing afterwards succeeded. We state in the Article that Bulwant Sing was a great chief or zamindar of certain provinces or districts in India called Benares and Ghazipore, dependent upon the Mogul Empire through Suja-ud-Dowla. We contend that he was a great chief and zamindar, possessed of considerable authority and dignity in his own territory, and holding a situation of considerable independence. This is denied by the Counsel on the other side, who state that he was nothing more than the vassal of Suja-ud-Dowla—using the word vassal in the most degrading sense which it can convey: and they have produced evidence of different sorts in order to prove to your Lordships that this person, whom we contend to have been a great chief or zamindar, was nothing more than an amil or collector in those provinces.

Condition of Bulwant Sing.

His independence.

The first evidence that they have produced upon that subject is in page 1467 of your Lordships' printed Minutes—a letter from Lord Cornwallis and Mr. Shore—in which it is stated that—

Letter from Lord Cornwallis and Mr. Shore.

"With respect to several of these, a question of considerable importance arises. It appears that many zemindars were dispossessed by Bulwant Sing, when he was employed as Aumeen of Benares under the father of the late Sujah Dowlah. Their claims were acknowledged by Mr. Hastings in 1781, and his determination went to the restoration of them to their zemindaries; which, with regard to Rajah Adel Sing, was literally carried into execution."

This letter appears to go thus far at least—that, in the opinion of Lord Cornwallis and Mr. Shore, at that time, Bulwant Sing held the situation of amil or collector under the father of Suja-ud-Dowla. Now, I shall have occasion to remark, in the subsequent parts of this Charge, upon a very serious accusation brought against us by the learned Counsel on the other side, of having garbled and misrepresented, not only in the statement of the Article which is before your Lordships, but in the production of the evidence that is now upon your Lordships' table, which they contend we have

8 May 1794.

Misrepresentation of evidence imputed to Counsel.

garbled and mutilated, with a view to confound and conceal the truth. My Lords, what shall we say to these gentlemen who, at the time they are bringing this charge against us of misrepresentation, are themselves guilty of such a misrepresentation, or rather such a garbling, as I shall prove to you in the production of this letter? My Lords, I am disposed to attribute it to forgetfulness, and to nothing else; because I cannot conceive that they, who were pronouncing such invectives against us for having misrepresented and garbled, at the very time that they are bringing that accusation, should themselves be guilty of that against which they are pronouncing such invectives. I will, therefore, suppose that it is from forgetfulness, or from a want of sufficient attention to the whole of that letter, which they produce for the purpose of showing that Bulwant Sing was nothing more than an amil or collector, that they have overlooked a subsequent paragraph in the very same letter which would have proved, as far as will be satisfactory to your Lordships, that, in the opinion of Lord Cornwallis and Sir John Shore, whatever title they might give Bulwant Sing, whether they might call him amil or zamindar, or by whatever other description they might designate him to your Lordships, yet they did hold his situation to be that of very great independence, as stated in the Article. I shall, therefore, refer your Lordships to the evidence produced by the Managers for the Commons in reply, page 2481 of the printed Minutes, in which it is said:—

Evidence in reply.

"The sovereignty of Benares was first conferred upon the English in 1764. It was restored by them, by a treaty, in 1765, to Sujah-ul-Dowlah, and again made over to the English by Azoph-ul-Dowlah in 1775. In all these transfers a reservation of the right of Bulwant Sing and Cheit Sing, little short of independency, was particularly attended to; and, even now, the internal administration of the country is left with the present Rajah, with no other interference than to assist, superintend, and to control his administration."

They have further produced, as your Lordships will find in page 1470 of the printed Minutes, a minute of a consultation in the year 1765, in which they express that it would have been rather their wish that Bulwant Sing, after the violation of his treaty with them, had been dispossessed of his zamindary: however, as it had been otherwise concluded by the treaty, that they should maintain that treaty. And they state, as a reason for wishing that it had been in the hands of a person whom they could trust more than Bulwant Sing, that his troops would have been considered

as additional to their strength; that upon this they found a claim in the superior Government to call for the service of these troops, whenever it should appear proper for them so to do. There is in this letter mention of a treaty negotiating at that very time by those persons. And I should wish to put it to your Lordships and the Counsel themselves, whether the troops of a faithful ally would not be considered as a great addition to the strength of a Government which had such an ally; and whether the argument can go to the length, that, because they would have been an addition to our strength, therefore we had a right to demand the service of them whenever we should think fit? 8 May 1794.

My Lords, this is principally the evidence produced by the Counsel in order to show what were the rights of Bulwant Sing; that they were not of the high description that we have given of them; that he was little better than an amil or collector; that he was in a state of perfect dependence upon the former Sovereign of Benares; and that Cheyt Sing afterwards succeeded to the territory upon those very same terms, and became in like manner dependent upon us. And in support of this they have used another argument, which appears to me little less extraordinary than the former. They have found out that, in the year 1764, I think, Bulwant Sing served in Suja-ud-Dowla's army. Without any enquiry whether he was there as an ally, or whether he, as they contend, was performing his duty as a vassal, the mere fact of his having been found serving in Suja-ud-Dowla's army, in 1764, is, as is contended by these gentlemen, a conclusive proof that he was subject to such military service as it is the object of the present defence of Mr. Hastings to set up a claim to on the part of the British Government. They argue rather curiously upon this subject. They say the service of Bulwant Sing could not be voluntary, because at that time he was on very bad terms with Suja-ud-Dowla. Will that go to confirmation of a right in Suja-ud-Dowla, if the service was compulsory? If, from fear of a tyrant who was at that time upon the borders, or, I believe, absolutely within his territories, with a considerable army, Bulwant Sing afforded a compulsory service to Suja-ud-Dowla, would that be such a ground as any British tribunal would support a right upon, claimed by an English Government, to exact a similar service from the Raja when he became dependent upon us?

Unsoundness of the argument from the military service rendered by Bulwant Sing to Suja-ud-Dowla.

8 MAY 1794.

Argument from the proposed treaty of alliance between the Nawab and Bulwant Sing.

Such is the evidence and such are the arguments produced by the Counsel in order to establish their position that Bulwant Sing was in the mere state of a vassal; and upon that I shall think it sufficient to leave it. But I will just call your attention shortly to one article of evidence, first produced by us, in page 11 of the printed Minutes, which puts this question, in my opinion, completely out of doubt, and shows, in a manner that precludes contradiction, that we are warranted in stating, as we have done, that the situation of Bulwant Sing was a situation of a great degree of independence, and that he was a great chief or zamindar in these provinces. It states that a treaty of alliance has been some time in agitation between the Nawab and Bulwant Sing, the Raja of Benares, whom they contend to have been his vassal, bound to perform a duty, and with whom, if their statement is true, it was impossible for him to enter into anything like a treaty of alliance. I therefore contend that the rights and power of Bulwant Sing were such as we have described them to be. I ought, perhaps, to apologise to your Lordships for having taken up any of your time in this discussion; for neither are the rights of Bulwant Sing absolutely material to the support of this Article. They may serve as an accessary to illustrate what afterwards became the rights of Cheyt Sing: they may serve to trace from what origin these rights were derived, and what motive, either of policy or justice, influenced the British Government in the further extension and confirmation of them: but they are by no means the sole title or the necessary foundation upon which these rights rest. Whatever Bulwant Sing might be, whether amil, collector, zamindar or vassal—whatever his description might be—I shall contend that the rights of Cheyt Sing were, not only his by inheritance from his father, but that they were his so clearly defined, confirmed and ratified, by treaties subsisting between him and the English Company, or by engagements which, as has been stated, were of a sanction and authority equivalent to the sanction of a treaty, that the question cannot admit of the possibility of a dispute.

The rights of Cheyt Sing.

My Lords, upon this subject, the argument rests principally upon the evidence that has been produced by us; the Counsel not having produced much evidence in reply to it, but having endeavoured to show that that which has been produced by us does not warrant the inference, or go to the conclusion, which we wish to establish upon that evidence.

The first evidence produced by us upon that subject is to show that Cheyt Sing, in the year 1770, succeeded to his father Bulwant Sing, and held the zamindary precisely upon the same terms as his father had held it before him. 8 May 1794.

His succession to the zamindary of Benares.

My Lords, in the year 1773 Mr. Hastings himself went upon a mission into the upper provinces, and one object of that mission was to procure a new grant for the Raja of Benares, Raja Cheyt Sing, in order to afford him a greater security in the possession of his territory. I shall refer your Lordships to the report made by Mr. Hastings upon that occasion, and which you will find in page 38 of the printed Minutes:—

Report of Mr. Hastings.

"I have advised you, in my letter of the 7th of September from Benares, of the issue of my negotiations, and the sum of the treaty concluded with the Vizier. I now lay before you No. 1 of the treaty itself, a counterpart of which remains in his possession. The other paper which accompanies this I shall refer to. No. 3 is a Persian copy of the coulnama or engagement which I obtained from the Vizier, confirming to the Rajah Cheit Sing and his posterity the stipulations formerly made in behalf of his father Bulwant Sing. No. 4 is an English translation of it. No. 5, a copy of the Vizier's pottah or rent-roll fixed with Rajah Cheit Sing for the year 1778, and alluded to in the coulnama. No. 6, an English translation of the pottah. No. 7, a translation of a letter which I wrote to Rajah Cheit Sing, as a further assurance of the conditions promised in the coulnama. The coulnama was executed in my presence and attested by me: the Vizier desired that the stipulations made in favour of the Rajah might be executed in this mode rather than by an article in the treaty, and it was equally satisfactory to the Rajah. I must remark that he had already given the Rajah a coulnama of this tenor soon after the death of Bulwant Sing, through the solicitation of Captain Harper, by the orders of the select committee. He could, therefore, have no reasonable plea to refuse a confirmation of it; nevertheless he seemed to think his former act of so little validity that he pressed me in very earnest terms for my consent that he should dispossess the Rajah of the forts of Lutteefgur and Bidjegur, and take from him ten lacks of rupees over and above the stipulated rents, and he seemed greatly dissatisfied at his refusal."

I wish, in pausing here, to call your Lordships' attention very particularly to this part of the report. You will observe that, at this time, in 1773, the Wazir had expressed a wish to take from this Raja of Benares his forts of Lutteepoor and Bidjey Gurh, and to exact from him an additional sum of ten lacs beyond his stipulated tribute. This Mr. Hastings opposed. For what reason did he oppose it? I suppose, because it was contrary to the engagement subsisting between the Wazir and this dependent Raja; that it would be a violation of those engagements to his rights. But if what Mr. Hastings and his Counsel contend for now be true—

Opposition of Mr. Hastings to the demands of the Wazir on Cheyt Sing.

8 MAY 1794. that these engagements could not stand in the way of the superior Government, and prevent them from exercising that which they contend to be the inherent right of every government on earth, namely, extraordinary aids in case of extraordinary emergencies, I should be glad to know upon what principle of justice Mr. Hastings opposed the Wazir at that time in taking from this dependent Raja ten lacs, when the Wazir was precisely in that situation in which Mr. Hastings now contends it is proper for the superior Government to make such an exaction, being then engaged in a war for the purpose of extirpating the Rohillas! All the arguments now urged for this demand of Mr. Hastings would equally apply to the Wazir; and Mr. Hastings disregarded them at that time as null and void. He prevented the exercise of these rights upon that ground at that time, and I wish him now to be tried upon the principles that governed his own practice; and we have a proof, not only of the opinion of Mr. Hastings, but of its confirmation by decided acts, that no such right existed in the superior Government as that which he now claims on behalf of the East India Company.

Application of the treaty of Allahabad to the rights of Cheyt Sing.

But, my Lords, he does not stop here. He proceeds to say—

"He argued that the treaty of Allahabad related to Bulwant Sing only,"—

This is an argument for being allowed to take the lacs,—

"and was never meant to extend to his posterity. I confess the letter of the treaty expresses no more; yet I cannot conceive that either the Rajah or Lord Clive, when the treaty was made, could have intended it in that sense. It has certainly been differently understood both by the Company and by this administration; and the Vizier had himself before put it out of all dispute by the solemn act passed in the Rajah's favour on his succession to the zemindarry. I am well convinced that the Rajah's inheritance, and, perhaps, his life, are no longer safe than while he enjoys the Company's protection, which is his due by the ties of justice and the obligations of public faith, and which policy enjoins us to afford him ever most effectually. His country is a strong barrier to ours, without subjecting us to any expense, and we may depend upon him as a sure ally whenever we may stand in need of his services."

Importance of Cheyt Sing's alliance.

We may depend upon this man as a sure ally. And yet it is contended that this was a dependent vassal, bound to afford any services which his superior might think fit to call for! I do not wish to push this matter to the extent to which the argument will go; I only wish to show that upon this report of Mr. Hastings we have, undoubtedly, evidence of the high and independent nature of the situation in which the Raja stood.

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A fixed tribute imposed by the Nawab upon Cheyt Sing.

We then come, in page 39, to the kaulnama or agreement given by the Nawab to Cheyt Sing, and which Mr. Hastings had obtained for him. And there it is stipulated that his tribute shall be fixed at a certain sum, and no increase shall hereafter be demanded. The patta then goes on to confirm the kaulnama. It says:—"there never shall be any deviation from this agreement." And a letter is written to the Raja, telling him that the Company will afford him their care and protection, and that in the agreements before mentioned there never shall be any breach or deviation. I will shortly state to your Lordships what I understand to be the nature of these agreements. I understand this to be the nature of them;—that, by these agreements, the Raja of Benares is bound to furnish to the superior Government a stipulated tribute, of which there shall be no increase. The learned Counsel in their argument upon this subject say, that it is very true of the tribute there could be no increase: that would have been contrary to these engagements. But, in these engagements, or agreements, or whatever you choose to call them, in which it is stipulated there should be no increase of the tribute, there is no provision against a demand of such a nature as is now set up; namely, a demand of extraordinary aid in time of war; that he remained equally subject to that on account of his duty as a vassal, notwithstanding this stipulation that there should be no increase of his tribute. I think it will be a sufficient answer to this, to show what passed in the year 1773, at the time when the Wazir was at war, when he called for that assistance which, if their arguments be true, he would have a right to call for. I say, then, coupling the terms of this agreement, which state there should be no increase of tribute, with this act of Mr. Hastings, in which he prevents the Wazir exacting this additional aid in times of war, that the terms of his tenure are clear and positive; and that, without a violation of justice and of those rights to which he succeeded by inheritance from his father, no such demand as this which is now set up could with justice be made or exacted from the Raja of Benares.

Additional demand in time of war opposed by Mr. Hastings.

My Lords, we have further produced in evidence, in pages 40, 41 and 42, of your Minutes, proofs of a transaction, in the year 1775, which affords additional confirmation of the argument that I have been endeavouring to establish. At that time, which I admit was a time of peace, and so far the Counsel object to that being adduced as any proof that

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The demand on the part of the Wazir of a payment of five lacs in advance resisted by the British Government.

we had no right to exact such a subsidy in time of war—I admit that this was in time of peace—the Wazir wanted to levy the five lacs, not as an addition to his tribute, but in advance of his stipulated tribute. For this of course he pleaded necessity; but the necessity it seems, however great, and which would justify such a demand of an additional subsidy in times of war, would not in time of peace justify even the demand of an advance of five lacs of the tribute. And, my Lords, accordingly, the British Government interfered to prevent it. They sent instructions to Mr. Bristow, then Resident at the court of the Nawab of Oude, directing him to remonstrate with the Nawab against such proceedings; showing that they were unjust and contrary to his engagements with the Raja, of which we were guarantees.

Report of Mr. Bristow.

In page 42, Mr. Bristow, giving an account of what had passed between him and the Wazir, says:—

> "I thought it necessary, after the conversation which had passed, both to support the honour of the Government and the credit of my own station, to tell his Excellency that the honourable Board would not suffer the rights of their dependents to be infringed; that Cheit Sing was to be considered in this light; and he must expect to see him protected; for he was not upon the footing of his other zemindars."

This is material, as it shows that, at that time, in the opinion of the Government, this man, who they contend was merely upon the footing of a common zamindar, was considered as not upon a footing with the Nawab's other zamindars, and that they prevented him from levying even so small an advance as five lacs; stating it to be contrary to his engagements, of which the British Government were guarantees.

Independence of Cheyt Sing recognised by the British Government.

Soon afterwards a negotiation was entered into for a new treaty with the Wazir; and in this it was proposed, first of all, that the Raja should be rendered more independent. And your Lordships will find abundant proof of what the opinions of Government upon that subject were in pages 45, 46 and 49, of the printed Evidence. And, in page 50, when the negotiation got a step further, and it was proposed to him to part with the sovereignty of Benares to the English Company, you will find Mr. Bristow's representation to him, stating that his rights over the Raja of Benares were so precarious and so small that it could hardly be considered as a disadvantage to him to transfer them to the Company. I contend, therefore, upon these grounds, that we have positive and strong proof that Bulwant Sing was a

great chief or zamindar; that Cheyt Sing succeeded to him, and held the territory upon the same terms that he did; and that, during the time he held it, the English Government in that country did show by their different acts and resolutions what they thought of the situation of the Raja, namely, that it was a situation of a great degree of independence, and not subject to such demands as have since been made upon him. 8 MAY 1794.

Transfer of the sovereignty of Benares to the Company.

In the year 1775, the negotiation which I stated was brought to a conclusion, and the sovereignty of Benares was transferred to the English Company. In the first instance, there was nothing more, certainly, than a change of sovereigns. I am willing to admit that in both cases the rights of the superior and the rights of the dependent remained the same—that the person only was changed; and that whatever duties Cheyt Sing owed to Suja-ud-Dowla, by a transfer of the sovereignty to the Company he owed equally to the English Company in future. Upon a transfer of this sovereignty, certain proposals were made, which were afterwards confirmed by the unanimous resolution of the Board and carried into effect, with regard to the future establishments of the province of Benares. But, before I take notice of them, I must here take notice of what I alluded to in a former part of my speech, namely, a most gross charge that has been brought by the learned Counsel on the other side against the Managers for the Commons—or rather, against the House of Commons itself; for, as your Lordships know, it is by the House of Commons that the Articles of impeachment were framed and sent up to your Lordships; and the Managers appear here afterwards only as instruments, to give effect to that which is the act of the House of Commons. They have brought, as I say, a most serious charge of wilful misrepresentation against the House of Commons.

Charge against the Managers of misrepresenting the terms of the transfer.

Reply.

My Lords, I thought that, after a diligent and laborious examination of all the matter stated in these Articles, the truth of few of them would be disputed; at least, I felt confident upon the subject of misrepresentation. However, I must say that a charge of this kind, as it is one of the most serious in its nature that can be brought against the honour of individuals, from the confident manner in which it was brought, in some degree shook the confidence which I myself felt upon this subject. At the same time, I was conscious that the niceties of pleading could not be expected

8 May 1794. from the Commons, and would not be required by your Lordships; that it was enough, if the Articles were generally stated with sufficient perspicuity and clearness to lead your Lordships to a knowledge of the nature of the allegations which we have brought against the prisoner, and to give him sufficient information with regard to such matter as he might be called upon to answer in his defence. Beyond this the House of Commons claimed no latitude; but, claiming this as their undoubted right—as the right warranted in all times, and warranted by the practice of this Court, which is not to be bound by anything but rules and precedents of its own—they do claim it also as a right, that they are not to be tied down by the niceties of special pleading nor to be bound by the rules of technical precision.

But it is not merely a want of technical precision with which the Counsel charge the House of Commons; it is a charge of a much more serious nature; it is a charge of substantial, direct and wilful, misrepresentation. It became those who made such a charge, particularly in the case of the person against whom they brought it, to consider well upon what foundation it stood. My Lords, now that it is brought, it becomes the Managers to show that it has no foundation in truth; which if they fail in doing, I am as ready as any one to admit, whatever the character of the accuser may be, that you cannot dismiss this charge of impeachment from your bar with too many marks of reprobation and contempt.

Exception taken by Counsel at the employment of the word "superiority."

My Lords, in this Article it is stated, in the first place—"that an assignment was obtained from the Vizier by the East India Company of the tribute payable by the Raja, whereby the rights of superiority which the said Vizier was entitled to hold and to bestow were transferred, yet the tenure and condition of the Raja continued the same as before." Now, my Lords, I should really have thought that this statement precluded even the possibility of cavil; but even here the charge of inaccuracy against the House of Commons begins. The word "superiority," it seems, was improper; it ought to have been "sovereignty." The rights of the Nawab of Oude, at the time that the Raja of Benares was dependent upon him, were rights of sovereignty. We succeeded to those rights; and no term can be properly descriptive of them but the word "sovereignty"; these being nothing less, it seems, than rights of sovereignty. And the Counsel who opened the defence to this Article, in

a strain of mixed sarcasm and seriousness, asks—"What democrat drew this Article?" 8 May 1794.

Purpose of the cavil.

I suppose, in the learned Counsel's opinion, the propriety of such a reflection was held to be of small consideration when compared with the prospect of utility and advantage to his client. He might think, perhaps, it was not inartfully done, to awaken your Lordships' jealousies lest, under this mask of an impeachment, the new doctrine of equality and the rights of man should be successfully introduced and propagated; and he expected, perhaps, considerably to bias your Lordships' inclination by uniting the cause of your hereditary honour and privileges with that of the prisoner at the bar. Or, perhaps, he might expect that this word "democrat," like the apple of discord, thrown into the box of the Managers, would create at once an explosion of their political opinions, and divert their attention from the prosecution of the prisoner to those great questions of government which now divide, agitate, distract and confound, the greater part of the Christian world.

My Lords, I am, therefore, inclined to give the learned Counsel some credit for the ingenuity of the device. However, as is sometimes unfortunately the case with ingenious things, the success of the execution may not have been perfectly answerable to the ingenuity of the contrivance. My Lords, I certainly shall not stop to inquire whether the opinions of my right honourable friend who opened this Article, or of myself, or of any one who is most suspected of leaning to democracy in his principles, are altogether hostile to the idea of sovereignty, or how justly such opinions are attributed to us at all. I shall admit, if it will be any satisfaction to the learned Counsel, that this word "superiority" was introduced purposely; not, as the learned Counsel has stated, in order to convey an inadequate idea of those rights which we endeavour to degrade by the use of this term, but in order to avoid the discussion of a nice and difficult question, which certainly would attend the precise and definite statement of the exact nature of that sovereignty which the British Government exercises in Hindustan. Therefore, in order to avoid a question of considerable difficulty and nicety, I admit that this word "superiority" was purposely introduced; but I deny that it was introduced with the view stated by the learned Counsel, and that it can in any degree either affect those rights of which we have given in proof, or in any way bias or decide your Lordships' opinions upon the

The word used advisedly.

8 May 1794. subject. What these rights are is the subject of particular limitations and compacts, and of course is subject to proof. That proof we have given; and upon your opinion of that proof your decision must turn, and not upon any statement of ours in the Article. I think they are properly described by the word "superiority." If the rights are in their nature equivalent to sovereignty, the use of that word will not diminish the effect of them.

We have stated that, whatever rights Suja-ud-Dowla held, these rights, by the transfer and assignment of the tribute of Benares, in like manner afterwards became the property of the East India Company. What these rights were your Lordships will decide, upon the evidence that has been brought respecting them. And upon this ground, therefore, the charge of misrepresentation against us I can consider as little better than cavil. I have nothing more to say to your Lordships, being little anxious, or doubtful indeed, of what your opinion may be upon that subject.

But, my Lords, this is certainly not the most serious particular in the charge of misrepresentation. I was stating to your Lordships that, upon the transfer of the sovereignty to the English Company, proposals were made by Mr. Hastings at the Board, in the consultation of the 12th of June—I think it is 1775—for the future settlement of the zamindary of Benares, which were afterwards confirmed by the unanimous vote of that Board. We have stated what I contend to be the true effect and purport of these proposals, thus made by Mr. Hastings and carried into effect afterwards by the Board. We are charged by the Counsel with having garbled and misstated them. Now, before I examine how far such a charge can be supported, I have only to say that we have stated in the Article our construction and sense of the meaning and purport of those proposals, and, if we really meant to misrepresent the real purport and effect, or to deceive your Lordships, there never were men who took so stupid a course to carry misrepresentation into effect as we have done, who, at the time that we were making this statement of the nature of these proposals, gave the proposals in evidence themselves before your Lordships, upon which to decide whether they are truly stated or not. It may be a false statement: it may not be supported by the fact: it may be erroneous: but that it can be done for the purpose of wilful misrepresentation I defy any man to believe, when we state this—that the proposals themselves are given in

Misstatement of Mr. Hastings' proposals for the settlement of Benares imputed to the Managers.

The proposals themselves produced in evidence by the Managers.

evidence, upon which you are able at once to discover how far I have stated them correctly or not. 8 May 1794.

I, therefore, stated at the outset, that this was only meant to convey the sense and construction which the House of Commons put upon these proposals and the terms upon which the zamindary was settled; and, if they have stated it erroneously, your Lordships' opinion doubtless will be against them; but that they have stated it erroneously with a view to misrepresentation, your Lordships cannot suspect. Was it necessary for us to recite at length the whole of those proposals which we meant afterwards to give in evidence? I am sure your Lordships will not say it was necessary for us to clog and embarrass an Article by such a statement. But let us see what these misrepresentations amount to.

Further reply to the charge of misrepresentation.

In the first place, we state in the Article:—"That Mr. Hastings did, in June 1775, lay before the Council, at Fort William in Bengal, several propositions, for the purpose of carrying into effect the intention of the Board to render the said Raja more independent—to prevent him from being reduced to what he, the said Warren Hastings, calls the mean and depraved state of a mere zemindar, and to raise him to a situation of power and dignity unknown to any of his ancestors."

Now what is the misrepresentation here? The misrepresentation is, that we have left out the words "that it was for the advantage of the Company" that he did this. Undoubtedly, whatever arrangement was to be made must be understood to be intended with a view to the mutual advantage of the Company and the Raja of Benares; but will your Lordships, from the mere omission of such words, which appear to be surplusage at best, fix an intention of misrepresentation upon the House of Commons?

Then we are charged, in the next place, with misrepresentation and misstatement, because we have omitted a part of the second proposition, namely, that he was to exercise this authority under the acknowledged sovereignty of the Company. Now I do not know that it was necessary for us to be repeating, in every stage of this Article, the same thing over and over again. I think you will find, in the whole construction of the Article, that the Managers have stated the rights which Cheyt Sing exercised to be exercised, in a certain view, in a state of dependence on the English Company. They have stated, in the outset of the Article, that he was dependent on the Mogul through Suja-ad-Dowla, who was his immediate superior. They have stated that, by the

8 May 1794. transfer of the assignment of the tribute from the Nawab of Oude to the English Company, we acquired these rights of immediate superiority, standing as immediate superior, as it were, between the Mogul and the Raja; that we acquired these rights which were before possessed by the Nawab of Oude. And, in two lines below this very place, where it is stated that we have purposely, for the sake of misrepresentation, omitted these words "that he was to receive this authority under the acknowledged sovereignty of the Company," we say that he was to hold them "so long as he continued faithful to his engagements, and punctual in his payments, and should pay due obedience to the British Government."

Now I should wish to ask, upon that statement, whether we do not state, in different parts of the Article, what is equivalent to these words which they say were purposely omitted; whether the whole construction of it must not convey to your Lordships' understanding that, in a great degree, he was dependent upon the English Government; whether, by this omission, we could mean to subtract that state of dependence from the view of your Lordships?

Alleged misstatement respecting the power of coining, &c. conferred on the Raja.

My Lords, the next false statement that we are accused of is in what we state respecting the power of executing criminal justice and coining money within his dominions, which we say have always been considered as marks of sovereignty. And this we state, it seems, without giving Mr. Hastings' explanation of what those marks of sovereignty are. I shall, in answer to that, shortly say that we state them precisely as Mr. Hastings states them, who says that they have been considered as marks of sovereignty, and that they are conferred on the Raja with a view to ameliorate his condition and to render him more independent than he was before.

Alleged misstatement respecting the instructions to Mr. Fowke.

The next false statement of which we are accused is one which, upon the first statement of it, I did not perfectly understand. We state in the Article, "that, so long as he should pay due obedience to the British Government, no more demands should be made upon him by the East India Company of any kind, nor, on any pretence whatsoever, should any person be allowed to interfere with his authority or disturb the peace of his country; which proposition was agreed to by the Council and was ordered to be communicated to the said Raja, Cheit Sing, by Mr. Fowke, the then Resident at Benares."

Now, my Lords, I thought, when I read this, that I re-

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membered perfectly that it was stated precisely in the terms of the resolution of the Board. And it seems that the misstatement is, not that we have not stated properly the resolution of the Board, but that we have stated the resolution of the Board when we ought to have stated the instructions to Mr. Fowke. And the learned Counsel raises a good deal of argument upon what, he says, is the false statement in the Article, namely, that Mr. Fowke was ordered to communicate it in the same terms. "No,"—he says,—"he was ordered to communicate it in terms perfectly different." Where he got the words "the same terms" I do not know, for they are not in the Article: it is only said that this resolution of the Board, which is acknowledged to be stated correctly, was ordered to be communicated by Mr. Fowke. Well, but—it is said—the instructions are different from the resolutions, and upon this variance the whole argument depends. I should wish to know which is the authentic instrument from which we are to understand what were really the rights of the Raja; and are those rights to be built upon a solemn resolution and enactment of the Government, or to be frittered and construed away by reference to instructions which were only a formal communication of that which was the authentic decision of the Board? If we wish to state what was the real foundation of the right, we could not be called upon to state those instructions which were only a formal communication of that which was the authentic decision of the Board. The real and true, authentic, ground upon which the right must rest was the resolution of the Board — the solemn act of Government. But it seems, because it would be more favourable to their argument, we ought to have stated the instructions to Mr. Fowke, which are not perfectly correspondent to the resolution of the Board.

Discrepancy between the instructions and the resolution of the Board.

Reply to the charge.

There is another false statement [charged against us], which is, I think, of little more validity or effect than this which I have already stated; namely, that in stating that a proposal was made that Cheyt Sing should engage to maintain in constant pay a body of 2,000 cavalry, we omit Mr. Hastings' words—that it was for the performance of his duty as a vassal. Now I own that I do not think these words very important: I do not think it signifies much what Mr. Hastings called it. The question is upon the right of Cheyt Sing. Whatever his idea might be of his duty of vassalage, it seems that by this proposal, which he says "can only be recommended to the Raja, but which cannot be

Alleged misstatement respecting the demand on Cheyt Sing to maintain a body of cavalry.

8 MAY 1794. insisted upon," as a vassal he did not conceive him subject to the performance of such a duty as that which is now contended for. Is Mr. Hastings having called him a vassal a proof that he is subject to every duty that Mr. Hastings may think proper to annex to his ideas of a state of vassalage? If it was his duty to contribute such aids as those now insisted upon, why was this proposition made at all? It was superfluous and unnecessary: and, if I was to take anything from Mr. Hastings' idea that his duty is not such as he now states it to have been, it would be this very proposition, in which he states it to be "recommended to Raja Cheyt Sing to keep up a body of 2,000 cavalry, to be disciplined after the European manner," which otherwise, he admits, he cannot insist upon or exact.

Alleged misstatement of the terms on which Cheyt Sing was to hold his zamindary.

The last [charge of] false statement that I am to trouble your Lordships with is the most alarming, and is particularly dwelt upon by the learned Counsel who opened the defence to this Article. He says that we state, that, in the regulation and government of his zamindary, he was to be subject to no demand of any sort or kind, or upon any pretence whatsoever, over and above the payment of the rent or tribute stipulated to be by him paid. This, he says, is a most gross misstatement; that we have taken words out of different sentences and put them together, which were before separated by the sense and applicable to different things; and he refers to the proposal, in which it is stated that he should be subject to no demand of any sort or kind, nor, upon any pretence whatsoever, shall anybody interfere in the internal government of his dominions; accusing us of having separated those words "upon any pretence whatsoever" from those to which they immediately related, namely, to the authority he was to exercise in his dominions in which we are not to interfere, and applying them to making this demand, to which they were not at all applicable.

Reply.

It did occur to me, when I first attended to this accusation, that it might have some effect upon your Lordships, and it did convey some uneasiness to my mind. I own, I thought it would be a sufficient answer to it, to say that, in this part of the Article, we were not quoting these words as the words of Mr. Hastings, but giving them as our construction of rights enjoyed by the Raja of Benares. I was, however, apprehensive that this would not be deemed a sufficient answer by your Lordships. But I was relieved from all this uneasiness on referring to a prior part of this Article;

and your Lordships will find that the words are stated as a quotation, and that where they are stated as a quotation they are stated literally and correctly. For you will find, in a part of the Article I have been arguing upon before, "that, as long as he shall pay due obedience to the British Government, no more demands shall be made upon him by the East India Company of any kind, nor on any pretence whatsoever shall any person be allowed to interfere with his authority or disturb the peace of his country." There, where they were used as a quotation in some degree—but there, too, I should say they are rather as a construction of our sense of his argument than as a quotation—there they are given literally as used by Mr. Hastings; and if they are afterwards used in another way, they must be as conveying our ideas, and not as a quotation of his words. And [I trust], if the learned Counsel will not give us credit for common candour and common fairness, that at least they will give us credit for common sense; for it is impossible that, having stated these words just as they were two sentences before, we could state them in this way with a view to misrepresentation, or to deceive your Lordships. I shall dismiss this charge of misrepresentation—not as against the Managers, but the House of Commons—with that sort of disregard which I think it merits, and I shall now come to consider, upon the ground of these proposals as carried into effect by the resolution of the Board, what became of the rights enjoyed by the Raja of Benares. 8 May 1794.

Original position of the Raja.

My Lords, we state that, in his original situation of a dependent upon the Mogul through Suja-ud-Dowla, the Raja of Benares held a considerable rank of dignity and independence. We state that, in the transfer of Benares to the Company, he held precisely the same rank, being dependent still upon the Mogul through the English Company, in lieu of Suja-ud-Dowla. We have shown, I think, by evidence that, in his original situation, he was not subject to demands of the nature that have been made upon him since. We have now to consider how far the advantages of that original situation were confirmed or extended by his subsequent engagements or agreements with the English Company. And I have only to state to your Lordships that it was carried as a resolution of the Board, upon the proposition of Mr. Hastings—

His subsequent position under agreements with the Company.

"That, while the Rajah of Benares shall continue faithful to his engagement and punctual in his payments, and shall pay due obedience to

8 May 1794. the authority of this Government, no more demand shall be made upon him by the Company of any kind, nor upon any pretence whatsoever shall any person be allowed to interfere with his authority, or to disturb the peace of his country."

Observation of Mr. Hastings on the engagements entered into with the Raja.

Mr. Hastings' observation upon this proposal, at the time he made it, it may not be altogether immaterial to observe upon: he says:—

"The voluntary restraint laid by the Government on its own actions will afford the Rajah the greatest confidence, and naturally inspire him with sentiments of fidelity and attachment, both from the principles of gratitude and self-interest. Without some such assurance, he will expect with every change of government additional demands to be made upon him, and will of course descend to all the arts of intrigue and concealment practised by other dependent Rajahs, which will keep him indigent and weak, and eventually prove hurtful to the Company. By proper encouragement and protection he may prove a profitable dependent, a useful barrier, and even a powerful ally to the Company; but he will be neither if the conditions of his connexion with the Company are left open to future variations."

The instructions to Mr. Fowke compared with the resolution of the Board.

This proposal, moved by Mr. Hastings, with this explanation, was adopted by the Board, and, as I stated, carried into effect, and communicated to the Raja. The learned Counsel dispute this; and their first objection is, that we are not to establish the rights of Cheyt Sing upon the authority of this proposal, carried into execution by the resolution of the Board, but that we are to examine and to consider what those rights were upon the authority of instructions which were merely the instrument for carrying into effect this resolution; and they refer us to Mr. Fowke's instructions, which were drawn in consequence of the unanimous agreement of the Board upon this subject. And here it seems that, under the acknowledged sovereignty of the Company, the Council say to Mr. Fowke in their letter:—

"We are determined to leave him the free and uncontrolled management of the internal government of his country and the collection and regulation of the revenues, so long as he adheres to the terms of his engagements, and will never demand any augmentation of the annual tribute which may be fixed."

Now the difference of this communication from the words of the original resoulution, as it is contended by the Counsel, is this—I shall have to take notice of their argument upon the resolution itself afterwards; and they seem to admit that something like a dispute might arise upon the resolution—though they protest against it in their argument, as I shall show, yet they seem to admit, in laying so much

stress upon the instructions to Mr. Fowke, that, standing simply upon the grounds of the resolution, the words "exempting him from any demand of any kind, over and above his stipulated tribute" would appear to be conclusive against such demand as has been made upon him, were it not for the difference of the words of the instructions to Mr. Fowke. And the difference they rely upon is this—that it is not here stated and communicated to Cheyt Sing that he was to be exempt from every demand, of every kind, over and above his stipulated tribute, but that he was to be subject to the payment of a certain tribute, and that no augmentation of that tribute should ever be demanded, which tribute might be [considered] fixed. 8 May 1794.

Now I contend, in the first place, that the ground upon which the Raja's rights rest are not, as I have stated, the communication to Mr. Fowke, but the solemn act and resolution of the Board. And I contend, in the next place, that even this reference to instructions rather than to the resolution of the Board will not serve them; because of what nature is this additional demand which, they say, might be made upon the Raja of Benares, and which was not precluded by any limitation of the power of the Company to augment his stipulated tribute? The nature of the additional demand which, they say, might be set up is that of a military contribution in time of war. Let us see what immediately follows in these very instructions to Mr. Fowke upon that subject, where they speak of the proposal for keeping up a body of cavalry within the Raja's dominions: they say there:—

The rights of the Raja founded on the latter.

The argument of Counsel not supported by the instructions.

"We deem it very essential that the Rajah, for the protection of his zemindary, should maintain a body of regular troops. We would strongly recommend to him the keeping in constant pay and ready at all times for service 2,000 horse, disciplined and clothed after the European manner. We cannot authorise you to insist upon this article. However, as it appears so obvious for his own interest, we doubt not but he will readily agree to it, and it must be left to his option to keep up or reduce his present military establishment. In consequence and as an inducement, we will agree that, whenever we may find occasion to call for the assistance of this corps or any part of it, we will pay a gratuity of fifteen rupees per month for each private man, and in proportion for the officers."

Now, my Lords, take these two articles of these instructions together, and then let me put it to your Lordships, whether they are not of themselves, exclusive of the resolution of the Board, which I maintain to be the true ground

8 May 1794. upon which the rights of Cheyt Sing must be argued—whether they are not of themselves conclusive against such a right as is now set up of demanding military assistance? What do these two resolutions taken together amount to? First, that there shall be a fixed, stipulated, tribute, which shall be susceptible of no augmentation; next, with a view to military assistance, they recommend to the Raja to keep up a body of horse, but they confess they are not authorised to insist upon it, and confess that, whenever they shall find it necessary to employ these horse, they ought to pay a gratuity of fifteen rupees per month for each private man, and in proportion for the officers.

Alleged limitation of the resolution to the subject of tribute.

Then it is clear from these two taken together, in the first place, that the tribute was fixed; and next, that he was exempted at his own option from any contribution and military assistance. But it is not upon the grounds of these instructions, which might or might not be an accurate representation of the resolution of the Board, but upon the resolution itself that the rights of Cheyt Sing must be grounded. And, my Lords, the Counsel in some degree are conscious of that; for they are not content with this argument in setting up the instructions against the resolution, but they come to argue upon the resolution itself. A most extraordinary and ingenious way they have, indeed, of getting rid of this, which appears to me to be so conclusive that it could not have admitted of a moment's doubt in your Lordships' opinion. They are accustomed to legal construction, and they say the true mode of construing any instrument is by the subject matter of it; that the subject matter of this is tribute and nothing else, and therefore that any exception or exemption must apply to tribute and nothing else; that Mr. Hastings agreed and the Board resolved that he should be subject to a fixed and stipulated tribute, and any exemption that they may afterwards grant, whatever words they may use, must mean only that he shall be exempt from an addition to that tribute, and nothing more; and they say that the words "that he shall be subject to no demands of any kind" mean no additional demand of tribute.

Fallacy of the argument.

This is curious logic! They construe demands of any kind to mean demands of a particular sort. Mr. Hastings says, beyond his stipulated tribute he shall be subject to no demands of any kind. This they say must apply to the specific nature of the demand, and that this is a demand of

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a particular sort, namely, tribute, to which it has reference and nothing else; and that those words cannot be considered as giving him any exemption, beyond that, which they admit he enjoyed, of any augmentation of his tribute. I do not know how far the modes of legal construction may warrant an argument of this nature, but I am sure that, as men of plain sense and honest judgment, as I believe your Lordships to be, where it is stated that a man, after paying a fixed tribute, shall be subject to no more demands of any kind, you will take these words in the common acceptation and plain sense in which men of plain sense will take them, and you will consider that, under this general exemption from demands of that kind, Cheyt Sing was exempt from such a demand of military assistance as it is contended the right to make is still retained within the words of this proposition.

Argument founded on the observations of Mr. Hastings.

They then found another argument, not less ingenious, upon the observations of Mr. Hastings upon this proposition, and they say that Mr. Hastings approves of this voluntary restraint: he adds, that "without some such assurance he will expect with every change of Government additional demands to be made upon him." Therefore they say that Mr. Hastings at that time must have considered that he was subject to additional demands. What is it that Mr. Hastings is proposing at that time? He says—"the voluntary restraint laid by the Government on its own actions will afford the Raja the greatest confidence." They lay this voluntary restraint upon their own actions rather for the satisfaction of the Raja than for any tie upon themselves—which I suppose at the time he would not dare to insinuate was necessary—to prevent them from infringing the rules of morality and justice, and from making those additional demands which the caprice or tyranny of his former sovereign might have imposed upon him. Then they say, that Mr. Hastings by this expression asserts positively that to our demands he was subject, and that, at this very time, the 12th of June 1775, when making these propositions, he conceived the Raja to be subject to such demands as he afterwards made upon him. Your Lordships will not adopt any such constructions. You will take the propositions in the way in which men of honesty and sense must take them, as clear and definite with regard to the rights of the Raja, fixing a stipulated tribute which he is bound to pay, and, above that, exempting him from all further demands, which, as Mr. Hastings well said, the power of making would only tend to inspire distrust

Its futility

8 MAY 1794. in him—"would make him weak and indigent, and in the event prove hurtful to the interests of the Company itself."

Therefore I contend, upon the whole of this evidence taken together, that the situation in which Cheyt Sing stood, after the transfer of the sovereignty from the Wazir to the Company—if the learned Counsel choose the word "sovereignty," I have no objection to adopting any word they please, the nature of the rights being subject to proof and not depending on the description or name that may be given to them—I say, that upon the transfer of the sovereignty Cheyt Sing became subject to certain duties; that is, that he owed fidelity to the Company in not contracting engagements with their enemies; that he owed the payment of a fixed and stipulated tribute; but that, over and above that, he was exempt from any demands of any kind. I shall conclude what I have to say upon this head by referring your Lordships to what, I think, adds an admirable winding up upon this business; and that is in page 60 of the printed Minutes, concerning the situation of this independent prince, or "mere depraved zamindar," as Mr. Hastings has somewhere termed him. There was some dispute whether the instruments granted to Cheyt Sing were in the nature of a common zamindary sanad, or of a treaty:—

Opinion of the Secretary of the Board on the nature of the engagements with Cheyt Sing.

"The Secretary informs the Board, that, the sunnuds for Rajah Cheit Sing being prepared, he circulated the following proposals of the Governor General for their opinion; that the Governor General directs him to request the opinion of the Board whether the pottah, sunnuds and coulnama, for the zemindary granted to Rajah Cheit Sing should be signed by him only or by the Board, remarking at the same time that it has been customary for dewanny sunnuds to receive only the signature of the Governor; but he thinks that, as the nature of the present grant is different and may be considered more in the light of a treaty, they should be signed by the Board."

Here then is an additional confirmation of Mr. Hastings' opinion of what the nature of these insignificant rights—as is now contended—of Cheyt Sing are;—that the engagements between him and the Company were more of the nature of a treaty than of a common zamindary sanad. And upon that ground I shall leave this argument respecting the particular rights of Cheyt Sing, and shall proceed to those general arguments upon which, notwithstanding those engagements, it is contended that the Government would have a right to set up such a claim.

My Lords, these rights, which were thus confirmed in the person of the Raja of Benares, in the year 1775, he con-

tinued in the uninterrupted possession of till the year 1778. Then a new scene arose and a great alteration of circumstances took place. A war had broken out with France, of which it seems, and I am ready to admit it, the prisoner at the bar had received such accounts as would make it prudent in him to make defensive preparations. I do not mean to state anything which I cannot fairly support; for, in the character here of a Manager, I should think myself criminal in the highest degree if I were to state anything as an advocate which I did not believe fully as a man. I think he has afforded proof that, in the beginning of the year 1778, when he made this demand, he had received such intelligence of a war with France, communicated to him from a noble Lord now in this House and from Mr. Baldwin, as would justify a man, attentive to the interests of the Government of which he had the charge, in taking measures of defence and security. Then I say that, in the year 1778, a new scene had arisen and an alteration of circumstances had taken place. A war with France had broken out, of which Mr. Hastings had received accounts; and, among other dangers which had been threatened from that calamitous war—to which perhaps many of the evils of the present hour owe their source—in the opinion of Mr. Hastings, Bengal was threatened with the danger of an invasion, against which it was necessary for him to provide. This was not, however, the only alteration which had taken place in the circumstances of these times. Another alteration, not less afflicting to the people of India even than the ravages of a destructive war, had taken place. Of that majority which had so long protected the people of India against the schemes of avarice and oppression, two of the illustrious characters which composed it were now dead. In 1776, General Monson died: in 1777, General Clavering followed him;—somewhere about April or May, I believe, it was that General Clavering died.

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Influence of the war with France upon Indian policy.

Deaths of General Monson and General Clavering.

At that time Mr. Hastings became in possession of the complete authority, having a majority then in the Council. And it is seriously stated by his Counsel as an argument of great forbearance in Mr. Hastings, and as a proof that he was not actuated by malice in what he did against Cheyt Sing, that he remained, from this time, when in the year 1777 by the death of General Clavering he had obtained a complete predominant influence in the Council, till the year 1778, without making any such demand as that which he then made upon him, as we state, " with a design to harass,

Mr. Hastings obtains a majority in the Council.

Forbearance shown by him towards Cheyt Sing.

8 MAY 1794. oppress, and ultimately to ruin and destroy him." This is seriously stated as a proof that Mr. Hastings was not actuated by malice. And I admit that, in the character and conduct of Mr. Hastings, it is an instance of extraordinary forbearance; but I do not think you will admit, because Mr. Hastings, as soon as he was possessed of authority, did not at once by a barefaced act of power sweep this wretched man from the earth, without any pretence or colour of any sort, that, if at last he did it upon a pretence that was insufficient and unjust, he is to be exempt from the charge of malice, and be absolved from that responsibility which, I say, must ever attach to the execution of a trust of the nature of that with which he was entrusted.

Eulogy of Mr. Francis.

After the deaths of Colonel Monson and General Clavering Mr. Francis alone remained, of whom I shall have much to say in the subsequent part of what I shall have to trouble your Lordships with, but whom I cannot mention, even *en passant*, without expressing the pride I have in calling a man my friend who, to the greatest ingenuity and acuteness of mind, adds the most indefatigable application, the most resolute perseverance and the warmest enthusiasm, in the pursuit of any favourite object, and in none so much as in the performance of any great moral and political duty; who at home is the active prosecutor of those crimes which he endeavoured in vain by a virtuous resistance to prevent in India, challenging and provoking his enemies to make any charge they could against him. To him may be applied the Emperor Constantine's eulogium on a virtuous man—that, though he has many enemies, he has not one accuser! He alone was left to oppose an active and virtuous but an ineffective resistance to the schemes and projects of Mr. Hastings, who now remained in full power to execute his purposes; and one of his first victims was that unfortunate Prince, in the discussion of whose rights, under the acknowledged superiority of the Company, I have taken up so much of your Lordships' time already.

His opposition to Mr. Hastings.

Mr. Hastings' first demand on Cheyt Sing.

In consequence of the war breaking out with France, Mr. Hastings—I think, on the 9th of July—your Lordships will find it in page 66 of the printed Minutes—proposed that Raja Cheyt Sing should be required in form to contribute his share of the burthen of the present war, by consenting to the establishment of three regular battalions of sepoys, to be raised and maintained at his expense: and this was afterwards commuted for a subsidy of five lacs of money.

Now this demand is justified principally upon these grounds: —first, upon the ground of the feudal law which, it is stated, is analogous to that which prevails in the constitution of Hindustan; next, upon the particular law prevailing in the government of Hindustan; lastly, upon the general abstract rights of sovereignty. And I believe they have gone so far as to say that the rights which a sovereign has can in no case be bartered away or given up by any engagements of any sort whatever. Upon these grounds it is stated, that, whatever the rights of Cheyt Sing might be under his particular engagements with the Company, a demand of military assistance—the circumstances and defence of the country requiring it—was justifiable. I believe—at least I mean to do it—that I state the positions maintained by the learned Counsel fairly. 8 May 1794. Grounds of the demand.

In the first place, upon the ground of the feudal law, your Lordships, I am sure, will at once see—and indeed I do not think it has been contended otherwise even by the learned Counsel—that no argument derived from the principles of the feudal system can be pushed beyond this, namely, to apply them by an argument of analogy to the constitution and government of Hindustan. To push it further than this, and to subject this Prince to a law which he never heard of, which never was promulgated in India, which does not actually subsist in this country which now claims a power of subjecting it to it, would be to add mockery and insult to injustice. Feudal law.

I am not sure that it is worth while to examine much this argument even of analogy. However, I am content to take up a short period of your Lordships' time—and it shall be as short as [possible]—in endeavouring to show how far by any analogy the feudal law—supposing that law to be analogous to and illustrative of the law which prevails in Hindustan—could justify such a demand upon the Raja. And, upon the maturest reconsideration, I have no difficulty in stating, what I formerly stated, not without much consideration and reflection, in the opening of this Article to your Lordships, that, if this question were to be decided upon the principles of the feudal law, your Lordships would not maintain such a claim as that which has been set up by the prisoner.

My Lords, this position the learned Counsel on the opposite side have contradicted; but I do not think they have succeeded in disproving it by any argument or authority which they have adduced in opposition to what I formerly

8 May 1794. stated. The principles of the feudal law are familiar to every person whose reading does not extend even beyond the history of his own country. It is known that the principle of the feudal law was, that the service from an inferior to a superior was in consequence of a positive compact between them; which service, therefore, I contend must be fixed and definite—so much service of such a nature for so much land. The grant of land was definite; that is, the fee or feod, or in modern English the pay or salary, of the soldier, which, money not then existing, he was paid in land.

Principles of feudal law.

My Lords, these conventions between the superior and his vassal—these conventions of personal service, from the king who was the highest feudal lord down to the lord of the most insignificant manor, formed the root and principle of the feudal system. The feudal law, which prevailed in almost all the countries of Europe, agreeing in its general features, certainly admitted of a variation of circumstances as to the tenure of each; but, unlearned as I am, I challenge all the learning on the other side to produce any authority or argument which can satisfy your Lordships that, in any, the terms of these tenures were left indefinite and uncertain. The service for a knight's fee in this country was stipulated at forty days. And this was levied generally throughout the kingdom to which this service was confined, either by personal service or by a per-centage in that proportion. But every feudal tenant was equally subject to this demand of military service, and none were called upon to serve beyond their proportion even of extra contributions of relief, ransom, marriage, and those other extraordinary occasions in which additional contributions might be expected. Even these were fixed and defined. And I again state it, as a position which they cannot controvert, that there was no uncertainty in the terms of the tenure; that the terms were fixed; that the service was defined and prescribed. I shall, therefore, contend that, upon the general system of feudal law, a demand of service, which was not only not defined and stipulated in the terms of the vassal's tenure, but which was expressly provided against—much more a partial selection of one individual, when others in similar circumstances were not called upon to serve—I say, I shall contend that, even upon the principles of the feudal law, were they applicable to a case of this nature, such a demand could not be justified, even so far as the constitution of Hindustan may be analogous to the feudal law.

Terms of tenure fixed and definite.

The demand not justified upon the principles of feudal law.

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This leads me then to consider what has been said relative to the constitution of Hindustan. And it cannot but have been remarked by your Lordships, that, though they contend for this right now, under the general authority of the principles and practice of the constitution of Hindustan, they have failed to produce any one systematic work of authority upon that constitution, or any grant of land, patta or sanad, or any official instrument of any kind whatever, or even any practical instance to which your Lordships would attend, upon which that claim could be supported. I should contend that this silence of all authority upon that subject would be enough; but I shall show that they do not go the length of maintaining the position which they are anxious to establish.

Argument from the alleged law of Hindustan.

My Lords, they have produced from the reign of Akbar a sort of census of the empire, of how much revenue and how many men, in time of war, each province was called upon to contribute. I should say, in the first place, that nothing could be more conclusive than this against the partial and individual claim made against Cheyt Sing; but, if you will examine this census upon which so much stress is laid, you will find that, independent of an immense revenue, the province of Bengal alone, without Bahar of which we are in possession, was to furnish a million of men for the service of the Emperor, who, if their argument be good for anything, were to serve at their own expense, and might be called upon on any occasion, when the Emperor was engaged in hostilities. With such a resource as this, that Mr. Hastings should apply to the Raja of Benares for a miserable subsidy of five lacs seems almost incredible. But I shall be told that the supposition is too extravagant and ridiculous. And yet, ridiculous as it is, such is one of the principal authorities upon which they now assert the authority of the superior Government, under the constitution of Hindustan, to make such a claim as this upon an independent prince!

Census of Akbar.

However they have produced some other evidence, something like what, I would suppose, would be called practical instances upon this subject. In the first place, they have referred to a letter produced by us in evidence, which your Lordships will find in page 33 of the printed Minutes, from Sir Hector Munro, in which he gives an account of his having, in conjunction with the King, issued a proclamation, or sent letters, jointly with him, to all the Rajas between Benares and Delhi, acquainting them with what had passed,

Proclamation of Sir Hector Munro.

8 May 1794. and desiring they would pay due obedience to the King, and not join Suja-ud-Dowla, but assist in driving him out of the country:—

"But before this is done I shall take care to have it under the King's hand that he holds these rights from the English:"—

A request from General Munro that all the zamindars between Benares and Delhi would assist in driving out Suja-ud-Dowla! This is one of the authorities upon which they rest their proof that, according to the constitution of Hindustan and their doctrine of vassalage, Cheyt Sing would be bound implicitly to furnish such a force, at the demand of the superior Government! But what was General Munro doing at this time, if their doctrine be true, but inciting those zamindars dependent on Suja-ud-Dowla to an act of absolute treason? For these must have been, a great part of them, subjects of Oude and Benares; and these gentlemen contend they were all of them subjects, not to the Mogul, but to the Wazir in the first place, and to us afterwards, upon the transfer of the sovereignty. Therefore it is upon such evidence as this, which if true would go infinitely too far in my opinion of it, they build up this position of theirs, that, such is the situation of the vassalage that the superior Government would be intitled to call for extraordinary assistance!

Summonses to his dependants issued by Cheyt Sing.

Another piece of evidence was produced by us, which is hardly worth while to take notice of, if it was not for showing your Lordships what the nature of the defence has been. In page 253 of the printed Minutes, in the Appendix to the Benares Narrative, there is a letter from Cheyt Sing to Dadjoo Sing, directing him, the moment he sees this order, to join him with all his people, and that every encouragement and support should be given to him. This is the order issued by Cheyt Sing to his dependants, after his expulsion from Benares by Mr. Hastings, which they contend is a proof that the superior Government had such a right. Without showing what the situation of these zamindars was—whether they were actually embodied as soldiers—whether they were actually serving in consequence of any engagement—whether by the terms of their tenure they were subject to such a service—without showing any of these things, upon this letter thus loosely written they found again their claim to establish these duties of vassalage in Cheyt Sing, because he exercised them over others who were his inferiors!

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Offer of Nundcomar to assemble the zamindars, &c.

They produce a letter, which is in page 1,000 of the printed Evidence, from Nundcomar, in which he engages to provide the supply of money, to levy the troops, to assemble the zamindars, and, in short, to perform every requisite part. This is another proof of this compulsory duty to which the Raja of Benares or any dependant in his situation was bound, that Nundcomar engaged to assemble the zamindars, without stating upon what terms he assembled them—whether with their consent or without! They might just as well state that a High Sheriff, assembling the gentlemen of a county at a county meeting, had a right to consider them as his vassals.

There is another part of the evidence relied on, where it is stated that his force would be an addition to the strength of the Company. I have stated before that the strength of an ally would be an addition to the strength of the Company; and I am sure that upon no such vague terms as these will your Lordships support any claim which is positively contradicted by the most clear and explicit engagements, such as, as Mr. Hastings has himself stated, were equivalent in their nature to a treaty.

Parol evidence.

But they have also relied upon some parol evidence upon this occasion; and I was a good deal surprised when I found the learned Counsel who summed up the defence upon this Article relying confidently upon the evidence of Mr. Stables, and saying that it was clearly on his side, in support of the claim which they have set up, and that with that all the evidence was on one side, even that which we had produced ourselves, and that the claim could not be controverted. I was a good deal surprised at this, even from the remembrance I had of Mr. Stables' evidence, before I looked at it again; but, when I came to look at it, my surprise was not less than, I believe, your Lordships' will be, when they come to give that as conclusive evidence of the validity of such a claim. Mr. Stables is asked—page 312 of the printed Minutes:—

Evidence of Mr. Stables.

"Whether, from your knowledge of the customs of India, a vassal is not always, in time of war, to be attendant upon his Sovereign?"—"I should suppose that he ought to attend him." "What part of India is it that your knowledge leads you to speak of?"—"Bengal." "You say, you suppose a tributary attends his superior lord; why do you suppose so—for what reason? Upon what foundation do you go, in saying a zemindar is obliged to be attendant upon his Sovereign?"—"I believe the superior always gives him orders to attend, and many do attend." "Have you any knowledge upon the subject but what arises from general reputation?"—"None." "Whether you looked upon Bulwant Sing as a vassal to Sujah-ul-Dowlah; and did he stand in that relation to him at that time?"—"I never considered him as a vassal."

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Now, my Lords, if this were proof, at least it would be complete proof against the claim that is set up against Bulwant Sing and his successor Cheyt Sing—if it is proof at all; for, though he states from this loose knowledge he had, arising from the general reputation of India, that he conceives a vassal ought to attend his sovereign, yet, when he comes to speak of Bulwant Sing, and whether he considered him as a vassal in that predicament, he states directly that he never considered him as a vassal. I require then nothing better for my purpose than Mr. Stables' evidence, which I shall follow the Counsel in stating after him; which I think incontrovertibly on our side; and upon which I shall rely as complete proof that, in the situation of Bulwant Sing, at least, no duty such as has been contended for could be inferred.

He does not consider Bulwant Sing to have been a vassal.

His examination proceeds further :—

"In what situation did you consider Bulwant Sing to stand to Sujah-ul-Dowlah?"—"He was originally, I believe, a zemindar under Sujah-ul-Dowlah, but he had by every means almost endeavoured to render himself independent." "But did he consider himself as independent?"—"No; but he endeavoured to render himself independent." "What do you mean by his holding of Sujah-ul-Dowlah under the Mogul?"—"He was tributary, and paid a tribute to Sujah-ul-Dowlah under whom he held, but what tribute he paid or on what terms he held the zemindary I am not acquainted with." "The witness has said, he thinks a zemindar is bound to attend his superior in time of war; does he think the consequence of a zemindar refusing to attend him would be a forfeiture of his tenure?"—"I am unacquainted what would have been the consequence."

This is the general knowledge of Mr. Stables, upon which they rely so much!

His imperfect knowledge of the usages of the country.

"Do you know anything of the laws or rules of that country but from conversation or rumour?"—"No; I am not acquainted with that." "What do you understand to be the situation of a zemindar?"—"A possessor of a district under a sunnud."

So much loose knowledge as Mr. Stables has from general rumour they rely upon as proof of the duty of a vassal, and his direct assertion with regard to the situation of Bulwant Sing, with which he was acquainted from a residence in his country or near it, they hold to be nothing, though that was given positively; and the other is considered as important, which he gained from general rumour in that country!

Evidence of Mr. Markham.

Then there is another witness whom they rely upon as the bulwark in this cause, and that is Mr. Markham; and Mr. Markham, upon being asked, in page 1727,—

"Did you never hear that the subjects of Cheit Sing were very much surprised and astonished, and incensed too, at the arrest of a person

whom they looked upon as their Prince?" says:—"Does the question mean by *assisting in the rebellion* their joining him in his rebellion? I believe that they joined with him from the tenure that they held under him—from the feodal tenure they held under him, which was the same as he held under us. They looked up to him as their chief in the way that he ought to have looked up to the Company as his; and therefore they afforded him that military assistance which he ought to have afforded to the Company." 8 MAY 1794.

And again, in page 1730, upon being asked—

"Suppose forty-seven lacks to be his annual expenditure, from what fund could Mr. Hastings expect that he should pay 500,000*l.* more?"—"I humbly submit that the statement of the honourable Manager is false; therefore I beg I may not be supposed to answer upon that statement which is false in my own idea,—in the first place, because I do not conceive the Rajah Cheit Sing immediately paid his cavalry from his treasury, or that he paid his infantry so. Many of the zemindars under him, as I understood, the aumildars, under him, were obliged to hold horse and foot in readiness whenever they were called upon; and it is part of the system throughout all India, except, perhaps, in our own province."

Now, as far as the knowledge and opinion of Mr. Markham will have weight with your Lordships, this certainly is positive and decisive testimony with regard to what he believes to be the general practice prevalent under the constitution of Hindustan; but I am obliged to say that which it is my duty to say here, and to state to your Lordships, without meaning any disrespect to Mr. Markham, that your Lordships must take this evidence with considerable grains of allowance. When you consider the situation in which Mr. Markham stood under Mr. Hastings, the obligations he owed to him, the particular part he acted in all these transactions, I am sure I do not state too much in saying that your Lordships must receive this testimony with some degree of caution; added to that, that his knowledge and opinions with regard to the constitution and practices of Hindustan might perhaps, from his near connection at so early an age with Mr. Hastings, have been derived in a considerable degree from him. I, therefore, without imputing to Mr. Markham anything more than that sort of bias which it is hardly possible for a man not to feel who is under great obligations to another, and who himself has borne a distinguished part in those different transactions, I must state to your Lordships that this evidence is to be received with considerable grains of allowance: and I think it is to be received with the more caution upon this ground—that what he says with regard to the feudal tenures in Hindustan, or the tenures of zamindars

His probable bias in favour of Mr. Hastings.

8 May 1794. in Hindustan being of the nature of feudal tenures to which they are analogous, does not come in answer to any question upon that subject, but seems to be put in officiously, merely for the purpose of expressing his own opinion when it was not called for by the question which was asked him. Upon these grounds I state that your Lordships must receive this testimony with considerable caution. However it is positive, and your Lordships will consider, in weighing it, how far it is to be set up against the whole crowd of witnesses which are produced on the other side, and which, I say, are uniform in denying any right of the nature which is asserted in this evidence of Mr. Markham.

The demand not warranted by the law of Hindustan.

Therefore I shall contend that, upon any ground, the principles of the constitution of Hindustan, as far as we can collect any knowledge of those principles, either from the positive evidence relating to them, or from any analogy which by argument has been shown between the principles of the Hindustani constitution and the English constitution—I shall contend that no such demand as this could be justified; and that in no case a partial selection of one individual, when others in similar circumstances are not called upon to contribute, can be considered as warrantable or just. But is it upon such principles as these that a question of this nature is to be decided before a British tribunal? I have spent some of your Lordships' time in endeavouring to prove—which I hope I have done satisfactorily: if I have not, it is not from weakness of authority or the weakness of the argument, but from my want of ability to do justice to the authority and argument of which I am in possession—I have taken some time to show that, neither according to the principles of the feudal system, nor the Hindustani constitution, could such a demand be justified. I will now, for the sake of argument, for a moment—if the Counsel ask it—give up all the advantage derived from that argument, and will admit that there may be found precedents under the feudal system, and that under the practice of the Hindustani constitution there may be found precedents for such an extortion; and then I will ask whether your Lordships will sanctify this principle—that a British governor entrusted with British interests for the government of the British dependencies, and entrusted with the government of that country, not only for the good government of it, but for the honour of Great Britain—whether you will sanction this principle, that a British governor is to regulate

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his conduct according to any precedents to be found in the barbarous times of the feudal system or tyranny of the Eastern government, and not according to the rules of equity and general justice?

Justification of the demand upon the ground of the abstract right of sovereignty.

My Lords, this leads me to consider the third general ground upon which it was contended by the Counsel that this demand would be justified; namely, that, upon the abstract rights of sovereignty, it is a right inherent in every government to call for such extraordinary aids as this which, in a time of war, had been demanded and exacted of Cheyt Sing; that they being entrusted with the government have a right to call out *ad libitum* any individuals who may be in a situation of affording assistance to the state. For if the argument goes to anything it must go to that. Sovereignty in its abstract principle means that sovereign power in the state which directs the efforts of individuals to general advantage. The person who executes this trust must execute it according to some known law or some principle of equity, or else there would be no distinction between an act of government and an act of tyranny; for, if there is no known law or equitable discretion, sovereignty would be only another name for wrong and violence. If we admit, then, that there is any difference between good and evil, or any discrimination between an act of sovereignty and an act of tyranny, the thing which marks the difference is this:—that individuals are selected to bear burdens beyond their ability; or are called upon to bear them, when others in similar circumstances are not obliged to contribute. Now instances of oppression may be produced under almost every government: perhaps even our own experience may not be exempt from them. Where power is entrusted to man human passions will create a misuse of it. But these unfortunate instances law was made to correct, and an abuse of power cannot afford a precedent for the future exercise of it. Oppression never was and never can be a principle of any government upon earth. Governments may be vicious and imperfect in their system, and by this, their vice and imperfection, they may afford greater means and temptations to abuse than others which are better constituted; but, I repeat it, oppression never was and never can be a principle of any government upon earth; and, whatever the scheme of power may be, the moral relation between the government and the governed must in all cases be the same. Whatever the form of the government may be, the object of

Nature of sovereign power.

Abuse of power.

8 MAY 1794. government is the protection, and not the destruction, of every individual member of the state.

My Lords, these, I say, are the incontrovertible principles of political morality. They have never yet been contradicted, that I have heard of, except in the political creed of Mr. Hastings, who states the reverse of this proposition, and says that the rights of the sovereign are everything, and the rights of the people are nothing. I say, the rights of the people are everything, and that the power of the sovereign was given to him for no other purpose than for the protection of those rights, which if he betrays, he forfeits that trust and betrays the purpose for which that trust was confided to him.

Then I contend that, whatever power Mr. Hastings may claim, either under the constitution of Hindustan, upon the principles of the feudal system, or upon the abstract rights of sovereignty, if this was not exercised according to the immutable principles of morality, equity and justice, he is responsible for a betrayal of his trust. And, my Lords, I will not refer to Mr. Hastings, but I will refer to one of his defenders, whose natural love of liberty and justice made him forget for a moment the cause in which he was engaged, and who has given a brilliant description of that immutable relation between sovereign and subject, in terms much more forcible than any that I can use, and to which I shall, therefore, refer. The learned Counsel who summed up the evidence upon this Article justly said:—"There can be no such thing as a right to govern contrary to justice. Whatever, therefore, was the real nature of the Mogul constitution, whatever the powers which, according to the true spirit of it, belonged to the sovereign at the head of that empire, and which, in consequence of the transfer, devolved on the British nation, and under which transfer it became the duty of Mr. Hastings, in common with the other members of the Board, to exert them, he was undoubtedly bound to employ them according to those great and leading principles of justice which do not grow out of any particular form of government, but are the seeds and roots from which all lawful government must spring; which, I admit, cannot change with climate or vary with situation, but are immutable and universal, prevailing wherever the relation of state to state, of sovereign to subject, or of man to man, exists."*

Counsel's description of the principles of Government.

* Speech of Mr. Dallas; *supra*, vol. iii. p. 12.

My Lords, these are the true principles of government, and upon these it is that the question relating to Mr. Hastings must be tried; not upon any fancied ideas of what were the powers of the Moguls under the Hindustani constitution. But, giving him all the power, admitting him to have the right, the question is to be tried upon this ground—whether the exercise of that right and that power was consonant to the rules of justice, or was a violation of them, and a tyrannical use of those means which were entrusted to him for the preservation of the people of India. And here I cannot help taking notice of another argument of the learned Counsel, not very consistent, I think, with those principles which I have just stated, and to which, I am sure, every member of this august tribunal will assent. Forgetting the principles which he stated at the beginning of his speech, he afterwards argues that, if Mr. Hastings was legally invested with such a power—if the act was legal—no intention can construe it into a crime; and he illustrates it in another part of his argument, where he is speaking of an arrest, by an analogy of law, and he instances it in the case of an assault with an intent to commit murder. He says, the crime must consist in what the law makes a legal definition of an assault; that, if it do not amount to a legal definition of an assault, no intention which can be proved from intrinsic evidence will construe it into such a crime as the law of this country will take cognizance of. That I may not mistake the learned Counsel, in an argument in which he is much more likely to be correct than I am—I professing nothing of legal knowledge—I will read his words from the short-hand notes. He says:—"This charge stands upon two [general] grounds;—first, the [want of] right to make the demand; secondly, the malicious motive. [Now, both these grounds must concur to the support of this charge. Take away either, and it falls immediately; for, on the one hand, if we had a right to make these demands, and the acts done were lawful in themselves,] it is hardly necessary for me to point out to your Lordships that an act lawful in itself cannot be criminal in respect to the motives which occasioned it."* And then he says, speaking of the arrest afterwards,—"that the arrest, such as it was, is in itself a measure strictly justifiable and legal; and then I argue that, if so, an act that is legal in itself cannot become

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The question to be tried by the rules of justice.

Alleged unimportance of intent in commission of legal acts.

* Speech of Mr. Dallas; *supra*, vol. iii. p. 20.

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illegal in respect to any intent with which it may be accompanied, [even if your Lordships should be of opinion that the intent would have been illegal if accompanied with a particular fact]. In an assault with an intent to commit murder the intent is matter of aggravation; the substantive fact consists of the assault. But, if the act done does not in point of law amount to an assault which could not be justified, it is impossible that it can become criminal, even with an intent to murder with which it may be accompanied: or, in other words, an act legal in itself can never become [illegal in respect of any intent with which it may be accompanied. And, therefore, supposing the arrest to be by way of precaution or preparatory to punishment, or supposing it to be the ultimate punishment intended, if your Lordships think it to be fairly justified, even if you could get the length of believing that Mr. Hastings meant to extort this money from him, still the act would not amount to that specific offence.]"*

Law of assault.

My Lords, I am certainly not very conversant with legal arguments, but this appears to me to be a most extraordinary way of arguing, and which could only proceed from a degree of confusion which, I own, in the learned Counsel, whose clearness and ingenuity no man admires more than I do, and whose eloquence is of the very first description—I say, it could only proceed, in my opinion, from a degree of confusion which surprises me in that learned gentleman. Undoubtedly, the law having defined these acts which are criminal in themselves, and affixed the punishment which they incur, cannot, consistently with that regard for the liberty of the subject which it is the boast of the English law to maintain as its fundamental principle, take cognizance of such acts as are innocent and indifferent in themselves, and which, neither in their immediate nor remote consequences, affect the general interests of society. Certainly such acts, whatever intent you suspect a man to have, cannot become cognizable by criminal jurisprudence. But, in the case of an individual entrusted with great power for the government of a province or an empire, the acts which he does in the exercise of that power can in no case be indifferent. With great power, he holds great responsibility for the execution of his trust. If he executes it with propriety and justice, he does his duty; perhaps, considering the imperfect condition of

Distinction to be drawn between the acts of a private person and of one intrusted with the powers of government.

* Speech of Mr. Dallas; *supra*, vol. iii. p. 158.

man, he may be said to merit praise. If he acts contrary to his trust, whatever legal right may be vested in him, I say, he is responsible for the moral use of it; and, if it should be established, which I think it cannot be, that, upon any of the principles stated by the Counsel, Mr. Hastings while Governor of India was possessed of such a power, yet if it was exercised with injustice and violence, to the oppression and ruin of an individual, your Lordships will not admit of any palliation or excuse, because such a power was legally invested in him, for the immoral use he has made of it. 8 MAY 1794.

The conduct of Mr. Hastings opposed to the principles of the British constitution.

Therefore, when Mr. Hastings and his Counsel cite to me precedents of the feudal times, the principles of the Hindustani constitution, and practice of the Mogul Empire, and what they call the general rights of sovereignty, I cite to them the principles of the British constitution—those principles of equity and justice which the British constitution has sanctioned, not only for the regulation and government of those who are more immediately in the enjoyment of its blessings, but as a guide and limit of all who, under its influence, exercise a great power and discharge a great trust in the government of its distant dependencies. I say, then, that upon none of these principles can such a right be justified as that now claimed by Mr. Hastings; and that, if the exercise of it was contrary to engagements subsisting between him and the Raja, as I think I have shown it to be, it was not justified by a sufficient necessity; that it was acted upon by a partial selection of a single individual, when no other person of whatever description was called upon to contribute any share at all to the burthens of this war, which, they contend, justified such a demand. Then, I say, whatever extensive powers may be vested in the Governor of India, your Lordships will not sanction such a principle as this—that he was not answerable for so monstrous an abuse of it as this charges him with having been guilty of.

His consequent responsibility.

My Lords, I have stated then that, in the year 1778, war having broken out with France, of which I admit Mr. Hastings had received intelligence, he proposed and carried in Council a resolution to exact from the Raja Cheyt Sing an additional subsidy of five lacs, in lieu of that military assistance which, as a vassal of the Company, it is contended he was bound to contribute. The Charge states that "he did this under pretence of a war with France;" and the learned Counsel think they have succeeded completely in

Nature of the pretence imputed to Mr. Hastings.

8 May 1794. refuting what we state of its being a pretence, by showing that he had authentic intelligence of the war having broken out. His not having received authentic intelligence of it appeared, at the time the charge was drawn, certainly to be an aggravation of the offence; but it was not stated to be a pretence in that view. It was stated to be an unjust pretence as far as related to Cheyt Sing, who could not be affected by the war breaking out in Europe between France and England; that, whatever the terms of his tenure as a subject of the Mogul Empire might be, they could not be so altered by the transfer of the sovereignty as to make him subject to conditions to which before he never was subject; and that, as related to Cheyt Sing, the pretence of war, whether the advices of it were authentic or not, was a pretence.

Consideration of the necessity of the demand.

But, advice having been thus received, was Mr. Hastings justified in taking measures of defensive preparations? I beg here to distinguish—not to take them quite upon the ground that the learned Counsel has put it on. I say, we do not charge Mr. Hastings, as they wish to impress your Lordships with a belief that we do, with taking measures of defensive preparations; but that, under pretence of defensive preparations, he was guilty of a great and criminal act of injustice. Now, upon what ground is this demand justified? Upon the score of necessity;—upon the ground of right. I trust I have sufficiently proved that no such right existed. But certainly I am not one of those who will contend that there may not arise great and imperious circumstances of necessity to which the rights of individuals must give way. But, because in certain instances they must give way, they are not, therefore, destroyed. A government well constituted, where it is obliged from an imperious and pressing necessity in a particular case to disregard the rights of individuals, never will do so but with a view to future compensation. It is stated then that, war having broken out with France, Bengal was threatened with an invasion; that the Council acted under the idea of danger of an invasion which would, first of all, affect Benares.

Alleged danger of an invasion of Bengal.

Now, my Lords, it is singular that this idea of an invasion is entirely taken up from a person whom, on other occasions, they are so very ready to discredit, namely, from Mr. Francis, who, in the consultation which passed upon these proposals of Mr. Hastings on the breaking out of the war, was the only person who stated the possibility of an invasion of

Mr. Francis' apprehension of an invasion by sea.

Bengal. This idea, however, by Mr. Hastings and Mr. Barwell was treated with the utmost contempt. The Counsel, however, in their argument, have declared that Mr. Hastings concurred in his opinion that such an invasion was to be apprehended; and that it was upon this ground that his measures were taken. But they are not content with borrowing this idea of the invasion from Mr. Francis; but having borrowed it they entirely pervert it, and place the idea of the apprehension of the danger of an invasion upon quite an opposite ground to that which he stated. What was the danger he apprehended? Not an invasion from the Mahrattas, as the Counsel state it, but an invasion by sea from the French, against which he did not think Bengal was sufficiently provided. And would your Lordships, upon that ground, think it just to call upon the Raja of Benares, when no one individual member of the province of Bengal was called upon to contribute any share, however inconsiderable, of what might be necessary to defray the burdens arising from such measures of defence?

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Misstated by Counsel.

I shall refer your Lordships then upon this question of an invasion to page 64 of the printed Minutes, and you will there find that Mr. Hastings first states that—

Opinion of Mr. Hastings.

"All our measures must be so laid as to obviate or to oppose the probable designs of the enemy. The first attempts will be against Bombay or Fort St. George; Bengal will be their last, or, at least, their distant object."

So, my Lords, they are here providing for the immediate danger of Bengal, as the learned Counsel state! Mr. Hastings himself states that Bengal is in no immediate danger; but that a war is broken out in Europe; that our danger is from a sea attack, which he points out clearly by pointing out the places most exposed to it—Fort St. George and Bombay. And is it to be borne, that this man, a native, an inhabitant of Benares, perfectly free from such an attack, should be called upon to contribute to the defence of the Carnatic?

But, my Lords, this is not all. Mr. Hastings, in this same minute, says again, [with regard to the] detachment under Colonel Leslie which he had sent across India for the purpose of attacking the Mahrattas, and which—so little apprehensive was he of a Mahratta invasion—he had repeatedly refused to recall:—

His refusals to recall the detachment of Colonel Leslie.

"The detachment under Colonel Leslie may be employed in this service. It can be spared without danger to Bengal, which is secure from a present invasion, and it can soon be replaced."

8 MAY 1794. Will they then contend that it was upon any ideas of the invasion of Bengal that this measure was justified? It does not stop here. In page 86 of the printed Minutes, in answer to Mr. Francis, who states the possibility of the invasion of Bengal, alluding to an invasion of the French by sea, Mr. Barwell says:—

Opinion of Mr. Barwell.

> "Mr. Francis has suggested that the receipts of the revenue may be rendered precarious, whenever these provinces shall be invaded by a foreign enemy."

He does not express a doubt of our receipts being regular and uninterrupted, until so improbable an event shall take place. That is Mr. Barwell's opinion of an invasion. And then it concludes:—

> "That my silence as to the proposed invasion of the provinces"—this is in page 87—"by the French may not be construed into a tacit acquiescence in the probability of such a measure, I declare, I do not believe such an invasion will be attempted."

Their disclaimer of a belief in the probability of an invasion.

And then Mr. Hastings ends the consultation by saying,—

> "I agree entirely in the opinions expressed in the preceding minute."

Now, my Lords, with this evidence upon your table, what credit could the learned Counsel hope for from your Lordships, when they attempted to justify this measure of Mr. Hastings upon the idea that Bengal was in danger of an immediate invasion—not of an invasion from sea, but a Mahratta invasion; when such an opinion is entirely contradicted, not only by the very opinion expressed by Mr. Hastings at the time, but by the acts of his Government? When he had recourse to these extraordinary means to exact a sum of money from the Raja, beyond what he stipulated and contrary to all his engagements, that is justified upon an idea of an invasion of Bengal, when he himself disclaims any idea that there was a possibility of any such attempt—at least, immediately. He seems to have held it in perfect contempt, by sending at that time Colonel Leslie away from the defence of Bengal to attack the Mahrattas themselves. Upon this ground, therefore, of necessity, from any danger that might be apprehended from an invasion of Bengal, I am not at all apprehensive of what may be your Lordships' decision.

Justification on the ground of the pretended imminence of the danger.

Then the Counsel argues that Mr. Hastings was justified in acting, the danger being imminent, just in the same way as he would have been justified if the invasion had actually taken place; and that, unless we are prepared to say that Mr. Hastings, if Bengal had been invaded, would not have

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been justified in taking any means which fortune might throw in his way, under so pressing a necessity, we must admit on the other hand that, upon the imminent danger of such an invasion, he would be justified in using the same means. I do not understand that argument. Undoubtedly, if a place is besieged, for the defence of it the destruction of the suburbs may be justified;—always, I say, with a view to a compensation; but upon what will this be justified? upon the distant idea of an invasion?—upon an opinion which the person does not credit himself? No! only when the enemy has begun his approaches, and when there is no other safety for the place.

Argument from the offensive operations conducted by Mr. Hastings.

But, at the time that it is pretended Mr. Hastings was so apprehensive for his safety at home, so fearful of an attack upon the province of Benares, he was not only taking offensive measures against the Mahrattas by the detachment under Colonel Leslie, as I have stated, but he was taking further offensive measures against the French themselves, by sending to attack Chandernagore, one of the French possessions. And the Counsel have stated a curious argument upon this: they say,—"Do the Managers mean to contend that he is justified in making offensive operations, but is not justified in taking defensive measures; that we charge him for making defensive operations, but that there is no charge for taking offensive measures?" It is not for having made defensive preparations that we charge Mr. Hastings; but that, under the pretence of defensive operations, and when no such necessity as might excuse a violation of right in some cases can be proved to have existed, under pretence of such a necessity and danger he was guilty of a monstrous and cruel act of injury and injustice.

Now I have shown your Lordships, I think, satisfactorily, from the opinions, as stated in their words, of Mr. Hastings and Mr. Barwell, and from the acts of the Government at the time, that there was no such immediate danger as could warrant—or rather, that could have excused—such a violation of right. Admitting certainly that in some cases of extreme necessity the rights of individuals must give way to the general safety of the state, but stating that this was not, in the first instance, applicable to the Raja of Benares, I shall show that in other respects the necessity did not exist; that the state of the treasury was not such as made a demand necessary. Mr. Hastings, in page 82 of the printed Minutes, at a consultation, August 10th, 1778, makes a statement, in

MAY 1794. answer to a minute of Mr. Francis, that the money actually remaining at that time in the treasury of Bengal amounted to two krors, or something more, of rupees—two millions sterling. And he concludes that, by saying in answer to a proposal for a loan:—

Satisfactory condition of the treasury.

"It is my belief that the real expenses will not exceed one half of the sum at which I have estimated them for the period of time for which they are calculated; but, even if they be taken much higher, the expected balance will be at least two crore of rupees, a sum excluding every idea of distress and of the consequent necessity of borrowing money to relieve it."

Refusal of Mr. Hastings to open a loan.

Now, my Lords, at the very time that, upon the idea of a war having broken out, and great calamities being likely to ensue, and a great pressure of the Company's affairs for money, Mr. Francis, not having such sanguine ideas of the flourishing state of the Company's affairs as Mr. Hastings, proposes a loan, Mr. Hastings answers that the state of the treasury is so flourishing that it contains two millions sterling; that it precludes every idea of necessity; and that, under these circumstances, he would not even consent to open a loan or to borrow money. And yet, at this very time that he would not be content to borrow money—at this very time he is content to rob; and, in defiance of the rights of the Raja, that event which would not justify the asking a loan justified an act of oppression and injustice and robbery! Such are the pretended circumstances of necessity under which Mr. Hastings made this demand upon Cheyt Sing. I contend, then, that it was contrary to the rights of the Raja as established by his engagements—or by the treaties, rather, subsisting between him and the Company—and that no such necessity at that time existed as could excuse in this instance a violation of those rights.

Injustice of the selection of Cheyt Sing.

Now, my Lords, I say that this is particularly aggravated by the partial selection of Cheyt Sing; that, if the necessity of the Company's affairs was so great as to make additional contributions from the dependants of the Company necessary, that could not affect partially one individual, but that the burdens that should arise from that necessity ought to be equally divided between the different members of the state. I say that this ought to be done upon every principle of justice, and that the partial selection of Cheyt Sing is an additional circumstance of tyranny and injustice. What answer do the Counsel make to this? That there is no one person in the situation of Cheyt Sing of whom they could

Reply of Counsel.

make such a demand. Possibly not, to such an amount; 8 May 1794.
but do they mean to contend that, under the flourishing government of Mr. Hastings, when their happiness was so much consulted as is contended, will they admit, according to their argument, that it was in so degraded and miserable a state that, except this Raja of Benares who had some surplus left from the rapacities of the Company, it did not afford one individual member who could contribute a single shilling to the state? Possibly it might happen that there were none so rich or who could have contributed so large a sum: but there must—unless we could conceive the state of Bengal and Benares to be infinitely worse than even what, I believe, the government of Mr. Hastings has occasioned it to be; unless we can believe them to be almost absolutely depopulated and the inhabitants reduced to the utmost degree of misery and wretchedness—there must have been persons who could have contributed something; and, I say, whatever their situation was, each ought to have contributed his share, whether great or small, to the general necessities of the state, in which they were all equally implicated.

But the Counsel say there is no person in the same situation. If their argument be true, there are numerous persons in the same situation. If their argument be true that Cheyt Sing is nothing more than a common zamindar, Bengal and Benares abounded with zamindars, whose riches might not hold out a great temptation to avarice and plunder, but who certainly stood upon the same terms to afford, according to their abilities, assistance to the general defence of the empire. Upon this ground, in addition to the violation of right, in addition to the want of necessity at the time the demand was made, that this election was partial and oppressive upon this individual, when no other person was called to contribute, I contend that we are warranted in charging this upon Mr. Hastings, as is done in the Charge, as a substantial act of injustice, and for which I shall call for your Lordships' judgment upon him.

Justification on the ground of the acquiescence of the Council.

My Lords, I shall dismiss this first demand, taking notice of only one other ground upon which it is justified, and to which I do not believe your Lordships will think that much more weight is due than to any of the former; and this is, upon the acquiescence of the Council, and particularly Mr. Francis. Now, my Lords, I was a good deal surprised to hear this argument adduced—at any rate, as a justification of Mr. Hastings. If he had accomplices in his guilt, I do not

8 May 1794. know that his guilt would be the less. Perhaps the Commons might be deficient in not having extended their impeachment to other persons; but, if the acts done were criminal and unjust, others having been concerned with him as accomplices in the commission of those acts would not, according to any view I can form of the subject, have lessened his criminality, or induced your Lordships to absolve him from the charge brought against him. It appeared to me, therefore, an extraordinary topic to introduce into this defence. But I soon found what was the real object of it. The real object of it was, as is evident from the whole style and tenor of the defence, not so much a defence of Mr. Hastings as a direct and personal attack upon Mr. Francis. Two thirds almost of their argument have been employed upon this: and, if any impartial person were to read their speeches, he would rather think that Mr. Francis had been the person accused than Mr. Hastings. It is a glorious consideration for my honourable friend, as I have already stated, that, though he has been active in provoking and prosecuting those to whose corruption he was formerly an active enemy, they have not been able to bring forward any one charge against him, except these endeavours to implicate him in an act which we allege as criminal against Mr. Hastings, and under the shelter of his name, as it should seem, to defend Mr. Hastings from the imputation of malice with which he is charged in this Article.

Comprises an attack upon Mr. Francis.

Improbability of the accusation.

My Lords, I was, however, a good deal surprised at it. The evidence of the thing seemed to be so clear. That, if Mr. Francis had been conscious he was a *particeps criminis* in these acts of which Mr. Hastings is accused as guilty, he should when he came home have been an active and an eager prosecutor of them, when he must have been conscious, if he had given his acquiescence and concurrence in the measures in the way in which it is stated he gave it, that Mr. Hastings could not be brought to this bar or be prosecuted without an equal degree of shame falling on his head for his participation in the guilt of which Mr. Hastings is accused,—the evidence of the thing, if one had known nothing of the subject, was sufficient to refute such a charge.

I think the Counsel, upon reflection, will not feel quite comfortable in themselves for having made such a charge. Under the circumstances in which Mr. Francis stood, having been excluded, himself, by the active interference of the friends of Mr. Hastings from taking that part in this im-

His exclusion from taking part in the impeachment of Mr. Hastings.

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peachment which he was otherwise inclined to do, he had no means of answering to such a charge, if brought against him. The Managers for the Commons, [therefore,] rather as a justice due to Mr. Francis than thinking it necessary for the cause, because the cause is strong without it, produced him at the bar of your Lordships, that he might himself give an account of these transactions and by that means clear his character. But the Counsel, having made the charge, did wisely for themselves and their cause in not allowing him the confutation. I wish it had been entrusted to my friend to vindicate himself. But I must show that, even if he had been connected with Mr. Hastings in all these measures, that would not lessen the guilt of Mr. Hastings. I must show that, so far from having concurred, in the slightest degree, in the manner stated by the Counsel, in these measures, he did upon every occasion that he could do it give an opposition to those measures, and did uniformly dispute that right which it has been the object of my argument this day to show that Mr. Hastings contended for against the Raja of Benares, without any colour or pretence of propriety or justice.

His appearance before the Lords.

His uniform opposition to the oppressive measures of Mr. Hastings.

I shall refer your Lordships, first of all, to Mr. Hastings' minute upon the first demand, in consequence of which a considerable dispute arose. I admit that it does not appear upon the face of that consultation, in any minute of Mr. Francis, that he objected to the right; but we called him to your bar to explain to you how that happened; and, if he had been allowed to have given his testimony, we should have proved that many of the debates were carried on orally, previous to entering the minutes which were the conclusion of them; that he had made the objection in oral debate. And, indeed, without his having been called upon to say it himself, we have sufficient proof that it must have been so, from what Mr. Hastings states in his own minute—page 67 of the printed Evidence.

Mr. Hastings says :—

Minute of Mr. Hastings.

"That our resolution upon this subject may be unanimous, I agree to add to the question the following words—'and to be disbanded at the end of the war.' But, perceiving that the difference in our opinion upon the subject arises, not from a disagreement respecting the requisition simply considered by itself, but from a different understanding of the right of the Company to exact, under any pressure of affairs, more than the sum stipulated by the sunnud granted to Cheit Sing and the caboolеat given him in return, I must adhere to the question as it stands, wishing to avoid the question of right."

8 MAY 1794. Which question of right, upon this dispute that had arisen, not, as appears upon the face of the consultations, upon the written minutes, but in oral debate previous to entering the minutes—upon this difference of opinion, a reference with regard to the question of right was made to the Directors.

But this is not the only part of Mr. Francis' dissent. In page 76 of the printed Evidence, there is a long minute of Mr. Francis,—so long that the learned Counsel who summed up upon this Article, who is an enemy to garbling, who wishes never to misrepresent, who wishes to take the argument upon all occasions with perfect fairness—so long that, to avoid taking up your Lordships' time, it was impossible for him to read it through, and he read what he considered, I suppose, the most effective parts of it—the beginning and end; but, unfortunately, did somehow pass over that part in which Mr. Francis expresses his dissent to the right claimed on the part of Mr. Hastings. I will read, if I have breath enough—confessing myself to be considerably exhausted—that which is conclusive to show that Mr. Francis had done, ineffectual as his resistance was, all he could to save the Raja; resisting the claim of right, and [desiring] to leave it to the court of Directors for their future decision. This arises from a complaint of Cheyt Sing having evaded the payment of these sums at the time they were demanded.

Minute of Mr. Francis.

Mr. Francis, in his minute, says:—

His doubts as to the right of making the demand.

"There is no question but the Rajah must yield to the power of this Government; and I shall be as ready as any member of this Board to support its authority, as long as its power is directed by justice. I did from the first express a doubt whether we had strictly a right to increase our demands upon the Rajah beyond the terms which we originally agreed to give him, which he consented to, and which, as I have constantly understood it, were made the fundamental tenure by which he held his zemindary. If such demands can be increased upon him at the discretion of the superior power, he has no rights: he has no property; or, at least, he has no security for either. Instead of five lacks, let us demand fifty; and, whether he refuses or is unable to pay the money, the forfeiture of his zemindary may be the immediate consequence of it, unless he can find means to redeem himself by a new treaty. Having this opinion of the demand itself as it originally stood, it cannot be deemed extraordinary in me that I should proceed with very great caution in enforcing any penalties which may be proposed to attend his not instantly complying with it. It appears that the engagements made by the vakeel have not been confirmed by the Rajah, and that the vakeel had not even a letter of credence from his master. I know the temper of black servants too well to punish their principals for any acts done by them, or even to hold them bound, if not expressly or virtually confirmed by themselves. I do not mean, by what I have said, that the Board should give up the demand which they have already thought fit to make

of the Rajah. That resolution being passed, it only remains for us to take care that it should be carried into execution without harshness or violence. The Rajah must pay the money, if he has it; but I cannot conceive why we should insist on his paying it all at once. We do not instantly want it, and it may distress him in the greatest degree to part with such a sum at a single payment. My opinion is, therefore, that the liquidation of the present extraordinary demand upon him should be settled by kistbundy, and that he should be assured at the same time that this Board will not make any further demands upon him. Under such a settlement unanimously agreed to, it is not likely that the Rajah will delay or evade a due and regular execution of it from any hopes he may conceive of future relief by a change in this Government."

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He protests against the exaction of immediate payment.

My Lords, after this, I should think it would scarcely be contended that Mr. Francis was in any degree acquiescing. There are some parts in which the learned Counsel is led away by imagination rather than by fact: he says that "Mr. Francis gave his warm and cordial approbation to this measure." They are his words: I can refer to them in the shorthand writer's notes. But there is another consultation upon this very subject, page 77 of the printed Minutes, in which he says:—

"I only mean to shew that I adhere to my principles, and that the doubts I have constantly expressed of the justice of increasing our demands upon the Rajah, which if done at all may be done *ad libitum*, were not ill-founded."

He repeats his objection to the demand.

Now we have here, in the first place, Mr. Hastings' assertion, in his minute, which must have followed some oral debate upon the subject, that Mr. Francis disputed the right existing in the English Company, under any pressure of affairs. I ask if there could be a more strong and general negative put upon the claim of such a right than to deny that it existed under any pressure of affairs—a length to which, perhaps, I could not rightly go? I believe, I could go to say we had no right indeed, but that that right must, under certain pressure of affairs, have [been assumed]. But then, when it is followed by those strong expressions of Mr. Francis—that he had always disputed the right; and that the rights of the Raja were nothing if left open to continual variations and demands of this nature—supposing it true that Mr. Francis had acquiesced, which I contend it is not, can your Lordships admit any conclusion that the Counsel may be inclined to draw from this supposed and alleged, but disproved, acquiescence, as I contend, of Mr. Francis?

Mr. Francis did all that a man in that situation could do. Mr. Francis was without power. He was an individual

8 May 1794 in the Council opposing the will of Mr. Hastings who was supported by the majority, and he did all that he could do by stating, in the first instance, his doubt as to the right; by having it, in conjunction with Mr. Hastings, referred to the court of Directors; by repeating in subsequent minutes his opinion with regard to those rights, that the rights of the Raja might stand uninjured, and that at a future time compensation might be made. I say, more than this, Mr. Francis, in the situation he then stood, made all the opposition he could to it; and that your Lordships will discard from your judgments any idea that Mr. Francis acquiesced in the smallest degree voluntarily, as has been stated, or with any degree of approbation, to the making this demand upon the Raja of Benares.

Evasion of the payment charged against Cheyt Sing.

These are the observations I have to make upon the circumstances attending the first demand. I have only now to make observations upon the circumstances attending the payment of it. And here are the charges—that he evaded this, which is stated to be a just demand; that he put it off at different times; that he did plead inability to pay it; that he evaded it by every means in his power. I admit that he did so. And, when I have made that admission, I then say that it was natural to expect that he should do so. From the instant he found his engagements were disregarded, that the terms were set at nought, that the Government thought themselves exempt from them, and that they might make any new demand they chose, he was unwilling, undoubtedly, to admit the establishment of a precedent; [he endeavoured] to avoid that in the first instance, which, if he complied with it, would be increased upon him, as it was, in fact, afterwards, till he sank under it.

Such evasion to have been expected.

Any person conversant with India knows that upon a demand of money from the natives such is universally the plea; and not without reason. But I would here refer your Lordships to what Mr. Hastings himself foretells upon that subject in his minute, stating his reasons for wishing to make the Raja more independent. It is in page 54 of the printed Evidence :—

> "He will expect with every change of government additional demands to be made upon him, and will, of course, descend to all the arts of intrigue and concealment practised by other dependent Rajahs, which will keep him indigent and weak, and eventually prove hurtful to the Company."

This is the production of Mr. Hastings, and one of the

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reasons assigned by him for preventing such demands being made upon him. Now that it was made upon him, it has produced exactly that effect Mr. Hastings has described. It made him descend to those arts of concealment and intrigue which are practised by other Rajas, which made him indigent and weak, and eventually proved hurtful to the Company.

The payment completed within a period of less than two months.

But, after all these delays, which I am ready to admit, and which I rather charge as proofs of Mr. Hastings' criminality than as any proof of disaffection to the Government on the part of Cheyt Sing, to what—admitting all this—did this mighty delay amount, in the payment of the demand? The order for this demand was received by the Resident at Benares on the 28th of August: the payment was completed upon the 10th of October following;—within a less period than was allowed for the payment of his stipulated tribute, the monthly kists, which he was allowed to pay by bills, dated fifty-one days, at Bengal, and for any delay in payment of which he was subject to a fine of only one quarter *per cent. per diem*, upon the sum remaining due. This is the mighty delay in complying with a demand which was made upon him in violation of all treaties! And the delay I charge as a proof of the criminality of Mr. Hastings; he having forced him by his oppression to the practice of all the arts of intrigue and concealment made use of by other dependent Rajas, which he said would be the consequence of such measures.

CONCLUSION OF THE SPEECH OF CHARLES GREY, ESQ., MANAGER FOR THE HOUSE OF COMMONS, IN REPLY ON THE FIRST ARTICLE OF THE CHARGE, RELATING TO BENARES; 12 MAY, 1794.

12 MAY 1794. MY LORDS,—In having troubled your Lordships with another day's attendance upon that part of this important cause which has been unworthily committed to my management, I feel how much some apology is necessary for an encroachment upon your time which nothing but necessity could have induced me to make, and which has not been attended with a less disappointment of my own expectations than of those which your Lordships may not unreasonably be supposed to have formed, in the present period of this long depending trial.

My Lords, on a review of the various matters which, when I last had the honour of appearing in this Court, I found occasion to submit to your Lordships' consideration, though much may have appeared to have been insufficiently argued and many things most feebly stated, yet I am not conscious that I wasted your Lordships' time or my own strength in any discussions that were not material to the main points on which your Lordships' decision, with regard to the truth of the accusations brought by the Commons or the defence made by the prisoner, must rest.

My Lords, if I have already run into considerable length—into tediousness—from my own inability to give a more interesting and amusing character to these proceedings, I trust it will be attributed to the nature of the case, which in itself is of an extensive and complicated nature, embracing the transactions of several years, resting upon an immense volume of evidence, and rendered still more complicated by the generality and extent of the matters adduced by the Counsel and the prisoner in his defence. And, my Lords, I trust I shall not appear to have erred altogether without precedent or without excuse, if, in answer to speeches in which the learned Counsel consumed eight days, I have been unwillingly induced to consume two. Not to trespass unnecessarily, therefore, on your Lordships' indulgence, I shall

now proceed to continue my observations from that period to which I had brought them when I last had the honour of addressing your Lordships. Your Lordships will recollect that I left off at that period of the transactions stated in this Charge when the payment of the first demand of an additional war subsidy of five lacs from the Raja of Benares, and over and above his fixed and stipulated tribute, had been completed. After giving such answers, as appeared to me to be satisfactory, to the various arguments brought by the Counsel on the other side, first, with regard to the particular nature of the engagement subsisting between Cheyt Sing and the East India Company, and to those general principles of right upon which they contended that such a demand as this might be supported, I have shown to your Lordships that, under none of the circumstances in which this demand was first made, in 1778—upon none of the grounds stated by the prisoner at the bar—could it be justified; that it could not be justified upon the principle of necessity, the treasury at that time, according to the statement of the prisoner himself, being unusually full; that it could not be justified under the idea of the danger of an invasion of Bengal, the prisoner himself having repeatedly in his written opinions disclaimed any such apprehension, and by that which is better evidence than any written opinions, by the intrinsic evidence of his own conduct at the period when that demand was first made; that it could not be justified upon any principle of justice, for that, admitting the right, a partial selection of Cheyt Sing, when no other member of the state was called upon to contribute to that war which is argued as the cause of the necessity—the partial selection of an individual, I say, could not be consonant to any principle of justice; that least of all could it be justified upon any supposed acquiescence of the other members of the Council—which, in the case of Mr. Francis at least, I think, I succeeded in completely disproving—because, though participation in those acts might prove them to have been criminal, it could not absolve him from guilt.

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Recapitulation.

I have further shown that the evasions of Cheyt Sing, which have been so much complained of, were such as were naturally to be expected from a person under such circumstances; that they were the almost necessary result of such a demand; that the prisoner himself had foreseen and foretold that such would be the case; and that, after all these alleged evasions and delays, the payment of this additional

12 MAY 1794. subsidy in the first year had, in point of fact, been completed within the time that was allowed as matter of grace for the payment of his stipulated tribute. My Lords, here I concluded my observations upon all the transactions relative to the first demand made, upon pretence of right in the superior Government to call for military assistance in time of war from its dependants, in the year 1778.

Second demand upon Cheyt Sing.

My Lords, I now proceed to the second period of the transaction stated in this Article, and to the second demand, made in the year 1779. It is stated in the Article that "the said Warren Hastings did further, in or about the month of July, 1779, extort a like sum of five lacks of rupees from the said Cheyt Sing, under similar or such like pretences, and did compel the payment of the same by means of a military force, and did also extort the payment of a further sum of 2,000*l.* sterling, or thereabouts, on pretence of paying the expenses of the said force."

Difference in the circumstances attending the two demands.

My Lords, you will find in the 87th page of the printed Minutes Mr. Hastings' motion in Council, on the 19th of July, 1779, for the renewal of this demand. The justice of the demand itself stands in a great degree upon the same ground with that of the first demand, in the year 1778: some of the circumstances attending it are, perhaps, a little different. In the first place, it is stated by the learned Counsel that now, at least, there could be no doubt of the authenticity of these accounts respecting the war, which we have before, in the preceding parts of this Article, disputed. They ask therefore, can it now be considered as a pretence of Mr. Hastings, during the actual subsistence of a war which had now been carried on between France and England for more than a year, [that he] should now come forward and demand that aid which before he had demanded, in the year 1778, upon having received what we state to be not authentic accounts, but which the Counsel, I think, have sufficiently proved, as I before admitted, to have been such accounts as would have justified, and indeed would have made it the duty of, a person anxious for the safety of the government with which he was intrusted, to take measures of preparation? When I stated this before, I hope I was not understood to have given up anything of the Article, or to have made any admission that the Commons have been guilty of any inaccuracy in the statement of the Charge. If we stated that the accounts were not authentic, we did so upon Mr. Hastings' own authority. He says,

Existence of war with France.

Authenticity of the first accounts received by Mr. Hastings.

in the Minute in which he proposes those various measures:— 12 May 1794.

"The war having been notified to us, though not by authority, yet confirmed by evidence of such strength as to amount to a degree of certainty next to absolute, shall we proceed upon it as upon the grounds of a war declared and notified in all its forms?"

This is in page 67 of the Minutes.

There, my Lords, certainly, though stating it as a matter of information amounting almost to certainty, yet he conceives the accounts to want so much of authority as to make him diffident as to whether or no he would be justified in taking the same measures as if a war were actually declared in form. It was no otherwise that we stated it in the Article; and when we stated, therefore, that it was a war of which he had received no authentic accounts, I trust we shall not be thought to have given any representation of it which is not borne out by the representation in this minute, by Mr. Hastings himself. But it is not worth while disputing much that matter. The learned Counsel asks, was it a pretence, now that war had been actually subsisting for so long a time? Was it now upon pretence of a war which did not exist, and of which he had not authentic accounts, that he was called upon to contribute? The learned Counsel are aware, I think, of the weakness and fallacy of their argument in putting it in this manner; because, if your Lordships advert to that part of the Charge in which it is stated to be an unjust pretence, it is stated that a war in Europe is an unjust pretence for making such a demand on Cheyt Sing. But in the whole of the argument the Counsel sink the words "in Europe," and argue upon it as if it were a war in India, and he immediately expecting an attack from some of the Indian powers. I do say that it is a pretence not warranted by justice for calling upon Cheyt Sing, and that calling for it upon such pretence would be of itself a substantive crime, for which I should call in the same confidence upon your Lordships for your judgment.

An European war no ground for demands on Cheyt Sing.

Immediately after the resolution of the Board to renew this demand, in 1779, it was ordered to be communicated through the Resident to Cheyt Sing. And, when it was so communicated, Cheyt Sing, as usual, as is stated by the learned Counsel, and as I think is natural, did plead inability to fulfil this additional demand upon him; and in the payment of and discharge of it subsequent delays, or, as they call it, "contumacious evasions," did arise. Mr. Graham

Demur on the part of Cheyt Sing.

12 May 1794. represented to the Council this demur on the part of Cheyt Sing, and complained of these delays of Cheyt Sing at the same time. In the printed Evidence, page 88, there is a letter of the 16th of August from Mr. Graham to Mr. Hastings. Cheyt Sing at the same time wrote to Mr. Hastings a letter which it will be material for your Lordships to observe, and which you will find in page 89, in which he says:—

His letter to Mr. Hastings.

"I have been honoured with your letter, calling on me for the payment of five lacks of rupees on account of the expence of the war for the present year, and understand its contents. My situation is well known to you, and I assure you without reserve that I have no ability left, nor is there any mode of relief for me but in the exertion of your favour. I am fully convinced that it is your desire, who are my master, to support me your servant; and last year you directed Sheik Ally Mecky that I should by any means—by disposing of my effects, or by borrowing—make this one payment, and I should not be called on in future, and that you would take every means for my advantage and support. I accordingly put in practice every method in my power, and by loans made good the requisition. It is now absolutely out of my power to raise the sum required, and I am, therefore, hopeful that you will be kindly pleased to excuse me the five lacks now demanded, and that nothing may be demanded of me beyond the amount expressed in the pottah which through your favour I obtained from the honourable English Company."

He pleads a promise of exemption from irregular demands.

My Lords, in this letter, Cheyt Sing first of all states—what it is material for your Lordships to observe, when you come to consider that Mr. Hastings had alleged his consent to the payment of the first demand—he alleges that it was under a promise that it should not be repeated above one year. He further disputes the right according to the terms of his patta, which, he says, he had obtained through the favour and intercession of Mr. Hastings. These things it is material for your Lordships to observe, as heightening, in my opinion, the extreme injustice towards this man, who had been led to consent to the payment of this demand for one year under the express promise that it should not be repeated; to which allegation, in his letter, Mr. Hastings makes no reply, and never contradicts it, in any instance that I have yet been able to find.

No answer returned by Mr. Hastings to the plea.

In consequence of the things complained of in the letter of the 16th of August, and received at Calcutta somewhere, I believe, about the 26th, the Council entered into a resolution to write to Mr. Graham, in case the Raja should make any further excuses or delays, to send for the detachment stationed nearest to Benares, in order to enforce the payment

Mr. Graham is directed to enforce the demand.

of this second demand. Mr. Graham accordingly did so. A part of the subsidy had been discharged in the mean time—I believe, to the amount of two lacks and a half—before the arrival of the troops. The remainder was not discharged till after their arrival; and, in addition to that, an additional sum of 2,000*l.* was levied upon the Raja, upon pretence, as it is stated in the Article, of discharging the expense attending the march of these troops. With regard to the demand itself, such are shortly the transactions of the year 1779. I do not know that it is necessary for me to offer any new observation upon it to your Lordships, all that I offered upon the preceding one being strictly applicable. If I have succeeded in proving that, in the first instance, Mr. Hastings was guilty of a breach of the engagement subsisting between the Company and Cheyt Sing—that, supposing such an engagement not to have precluded him from the right he contends for, the exercise of the right under these circumstances was unjust and improper—that the selection of Cheyt Sing was injurious and oppressive—the same objections will apply to the repetition of the demand in 1779; and upon the same ground Mr. Hastings certainly must be judged. The only different circumstance attending it is, that war now had subsisted for a year; that, instead of a surplus in the treasury, the Counsel have stated in their argument that there was an actual deficiency. I say, admitting the necessity, a partial selection makes the demand unjust, and that he could not be called upon alone to contribute to that necessity, whatever it might be.

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Levy of an additional sum of 2,000*l.*

The same objections attach to the two demands.

As to the other circumstance, the act of severity in occasioning the march of these troops to enforce the payment, the learned Counsel say, and with some degree of plausibility and justice, that a right must necessarily imply the means of enforcing it; that, if the superior Government had a right to make this demand upon Cheyt Sing, they must also be supposed and understood to possess the means of enforcing it; and therefore, that, if the demand were just and proper, the march of the troops, if necessary to enforce the payment and satisfaction of that demand, will be justified upon the same grounds as the justice of the demand itself. If necessary, it certainly will be so justified; but the question is, was it necessary?

Attempted justification of the employment of a military force.

The learned Counsel say it was necessary for this reason, because in the year before more lenient measures had been taken, and because the contumacy, as they term it, had

12 May 1794. now been repeated; that it would have been trifling with the dignity and character of the British Government and lessening its energy, if he had not had recourse to more vigorous measures. This would have been a good answer if the lenient measures they had observed the year before had not been effectual; but, having been effectual, the Raja not having absolutely refused, but having made only these excuses in answer to the demands which Mr. Hastings was aware he would make, and which every native of India when called upon for money is always ready to make, as his only security against the increasing demand of those who wish to plunder him, Mr. Hastings might have expected, at least in the first instance, that such lenient measures as had been effectual the year before would have been effectual in this. But this, it seems, did not suit the dignity of the British Government: and accordingly, without having taken any previous measures to bring the Raja to acquiescence, they order the march of these troops to enforce this payment, and, in addition, impose upon the Raja another sum of 2,000*l.*, in order to defray the expense of the march of this detachment. Upon this statement I leave it for your Lordships to consider, in the first place, whether upon the grounds before stated by me the demand itself was just; and, in the next place, whether, under all the circumstances of the case, Mr. Hastings was warranted in exercising such act of severity, and in imposing upon the Raja what I can consider only as a fine and an additional punishment for a contumacy of which, I think, he had not been guilty.

Alleged acquiescence of Mr. Francis.

This demand is justified in page 89, also upon the same principles as that in page 88. And here we have again the acquiescence of Mr. Francis. It is stated that there was no dispute upon the proposal for the renewal of the demands; that all that appears upon the consultation to Mr. Hastings' proposal is, "Agreed to the Governor General's proposal." It certainly does appear so. My general arguments upon this supposed acquiescence will apply here as they did before. But I have this further remark to make—that the acquiescence in the demand upon the renewed proposal of this year was after all the objections that had been stated to it in the year 1778, when it had been determined, not as Mr. Hastings had promised Cheyt Sing, to be continued only for one year, but proposed to the Council as a war subsidy to last during the war; and that a reference had been made to the court of Directors upon the question of right. That, pending that reference,

Mr. Francis, upon the renewed proposal under these circumstances, does appear to acquiesce, I admit; but, when we come to the further stages of the proceedings, what appears to be the true character of the conduct of Mr. Francis? 12 May 1794.

Your Lordships will find, in page 89 of the printed Minutes, that, upon Mr. Hastings making this proposal for the march of troops, Mr. Francis gave it his decided opposition, stating:—

"I never approved of the additional demand beyond the stipulated tribute. I cannot, therefore, concur in the measure proposed. I firmly believe it to be unnecessary, even for its avowed purpose, and I am very much afraid that it will be attended with consequences ruinous to the Rajah and to his country."

This is the declaration of Mr. Francis' opinion again in the year 1779. And yet, with this staring them in the face, the learned Counsel seriously argue to your Lordships, and hope for your Lordships to form your judgment upon the principle of Mr. Francis' acquiescence!

Argument from the letter of the Council, Jan. 14th, 1780.

But the learned Counsel do not stop there: they proceed further, and they produce—or rather refer to—a letter produced by us of the 14th of January, 1780, written by the Council to the court of Directors, which your Lordships will find in page 90, giving an account of all those transactions. This letter appeared to be signed only by Mr. Francis, Mr. Wheler and Mr. Hastings; and the learned Counsel ask, now that Mr. Francis had a majority—supposing that to be the fact which I deny to be the fact, and which I would have contradicted by the most unequivocal testimony, if the Counsel would have allowed me to examine Mr. Francis at the bar—supposing that to be the fact which I deny, that Mr. Wheler was completely under the influence and dominion of Mr. Francis, they ask, now that Mr. Francis had a majority, that he could have written what letter he pleased, how he came to write this letter of the 14th of January?

In attending to this argument, it appears to me to be a sufficient answer, that this letter was only giving an account of the previous transactions of the Council; that it was drawn up in consequence of a resolution of the Board; that Mr. Barwell was at that time a member of it; that, if they suppose Mr. Wheler to be under the influence of Mr. Francis, I have better authority to assert that Mr. Wheler was under the influence of Mr. Hastings; that, therefore, Mr. Francis had not the majority they contend he had; and that this letter was only a formal instrument declaring what had been

12 May 1794. done at the Board, and as such signed by them, and by no means expressive of their opinions,—even admitting that which I do not admit, that, at that time, Mr. Francis had a majority in the Council. But it appeared to me a little singular, when I observed the date of this letter and recollected that Mr. Barwell had not left Calcutta till March following, that this letter should not appear to be signed by Mr. Barwell. I accordingly made inquiry upon that subject; and it turned out that, by some accident or other, a triplicate of the letter, instead of the original, had been produced in evidence, to which Mr. Barwell's signature did not appear. We searched for the original: we found it and produced it at the bar with the signature of Mr. Barwell! And there was an end of all this boasted argument of the majority of Mr. Francis. So much for the demand of 1779, and for the supposed acquiescence of the other members of the Council!

Discovery of of the original letter with the signature of Mr. Barwell.

Third demand upon Cheyt Sing.

My Lords, I now proceed to the third demand, in the year 1780; and here, if I admitted that in the year 1779 there was a deficiency in the treasury, that the distress of the Company had commenced, undoubtedly I must admit that in the beginning of the year 1780, or in the month of June 1780, when this demand was received, that distress had arisen to a most alarming height. But, my Lords, whatever the distress of the Company's affairs might be, I think I shall show to your Lordships that, in the course of this year, 1780, the demands upon the Raja were so unjust, made under circumstances so striking, increased in a proportion so unreasonable, that, whatever the distress of the Company might be, these demands, renewed, repeated, and heaped upon this individual Raja, without the participation of any other member of the state, could not be justified even upon the principle of this necessity, great as it might appear to be.

Increased distress of the Company.

Mr. Hastings' proposal of the 22d of June, 1780.

In page 92 of your Lordships' printed Minutes, you will find that, on the 22d of June, Mr. Hastings renews the proposals for a subsidy of five lacs from the Raja of Benares. It is here material to remark that Mr. Hastings did this the very day after he had received a present from this very Cheyt Sing of two lacs of rupees. On the 21st of June, Cheyt Sing's vakil, a person of the name of Sadanund, at Calcutta, made Mr. Hastings a present of two lacs of rupees. On the 22d of June, without any communication of this event to the Council, Mr. Hastings renews his demand for the additional subsidy of five lacs. It is stated in the Charge that this must have been offered by Cheyt Sing certainly with a view, or at least with a hope, to procure

His previous receipt of two lacs from Cheyt Sing.

Probable object of the present.

some remission in these demands that were made upon him and some favour from the Governor General. This is denied on the other part by the prisoner. With what other view, or what other hope, it could be offered, I leave your Lordships to consider, and to judge whether it is likely, unless he hoped to be favoured with the remission of the additional demand of five lacs, or some favour, that he should add this addition of two lacs to that which he was called upon for, contrary, as he states, to the ability he possessed to pay it. I leave your Lordships to determine, upon the face of this transaction, whether it is possible that the vakil of Cheyt Sing could have given this money with any other view or any other purpose; and I have only to state Mr. Hastings' own account of it, given in his Defence before the House of Commons. 12 May 1794.

Mr. Hastings' Defence before the Commons.

The learned Counsel, on the other side, have used a great deal of argument in order to take from that Defence the validity which, I am sure, your Lordships will annex to it. I shall not follow them through all their arguments upon that subject. They never can get rid of that Defence as a voluntary declaration of Mr. Hastings, if not composed, superintended, directed and produced, by him, as his statement of those facts upon which he rested his defence. And, my Lords, as I shall hereafter have occasion to recur to that Defence, in some other parts of the statement with which most unfortunately I shall trouble you upon this Article, I shall here state Mr. Hastings' own adoption of this Defence, if I may be allowed the term, by which he must be bound, and of which the learned Counsel's ingenuity never can get rid. In page 377 of the printed Minutes, he states the discouragements under which he produces his Defence before the House of Commons: he says:—

"I shall mention but two points; the first, is my being at all personally committed in my Defence; since, in so wide a field of discussion, it would be impossible not to admit some things of which an advantage might be taken to turn them into evidence against myself."

Counsel's attempt to evade the responsibility of it.

My Lords, it is now contended, and proof has been brought to your bar, that Mr. Hastings did not compose this Defence, and that, therefore, he is not pledged and bound by it. Now mind what he says to the House of Commons, to whom he offers this Defence, in hopes they will judge it sufficient to prevent finding and bringing this charge against him:—

Mr. Hastings avows

"—whereas another might as well use as I could, or better, the same materials of my Defence without involving me in the same consequences;

12 MAY 1794. but I am sure that this honourable House will yield me its protection against the cavils of unwarranted inference, and, if the truth can tend to convict me, I am content to be myself the channel to convey it. The other objections lay in my own breast. It was not till Monday last that I formed the resolution, and I knew not then whether I might not in consequence be laid under the obligation of preparing and completing in five days—and in effect so it has proved—the refutation of charges which it has been the labour of my accuser, armed with all the powers of Parliament, and at one time greater, to compile during as many years of almost undisturbed leisure; but I know myself equal to the undertaking, and I now only revert to my difficulties that the consideration of them may bespeak the candid allowance of this honourable House for any inaccuracies or for anything defective which may appear in my Defence; but I claim no other indulgence on this account."*

himself the author.

Here, my Lords, he avows himself the author of this Defence, which, under difficulties, as he states, very great, he yet found himself equal to make, and to which he consents to be bound and pledged, as a true statement upon these articles upon which he was then threatened with an accusation. This I should think was sufficient; but this was not all. At his own request, this Defence was given in to the House of Commons and printed; and Mr. Hastings, if he had not seen it, as some of them contended, till he heard it read at the bar, if even then he found anything in it which he disapproved, and which he believed not to convey a true statement of matters upon which he meant to rest his defence—even then he would have had an opportunity of correcting it, for he himself superintended the correction of the press. And now they come forward and wish to persuade your Lordships that this Defence was not the authentic declaration of such matters as he wished to rest upon; that his Defence was composed by another; that he was not responsible for or bound by it in any degree; and that your Lordships should dismiss it altogether from your consideration. I am sure you will consider that Defence, as it is, an authentic statement given in by himself which is evidence against himself—his own voluntary confession. But this your Lordships must determine. In this Defence, standing upon such authority, Mr. Hastings himself says—

He corrects it for the press.

"that Buxey Sadanund, the confidential servant of Cheit Sing, [had been deputed to me in Calcutta by his master, to acknowledge his former ill conduct, and to assure me of his implicit obedience and submission in future. He was also entrusted by his master to endeavour to procure a remission of the payment of the annual sum of five lacks of rupees, which the Board had fixed, as his proportion of the expenses] of the war."

His account of the transaction with Sadanund.

* Minutes of Mr. Hastings' Defence, read at the bar of the House of Commons. Printed in the Minutes of the Evidence, p. 19.

Here Mr. Hastings avows that the principal commission 12 MAY 1794. of this person was actually to procure the remission of the payment of the additional subsidy. And what does he do in order to procure that remission? He first expresses great sorrow for his former ill conduct, and promises obedience and submission in future; and then Mr. Hastings says,—

"I peremptorily refused his request and assured him on the restoration of peace [this additional subsidy should cease, and that this was all he must expect. Sadanund wrote to his master, and received a commission from him to give me the strongest assurances of his future obedience and submission to the orders of Government. And he was further directed to request my acceptance of two lacks of rupees as a present to myself]."

He is charged with a negotiation to procure a remission of this additional subsidy. He promises obedience in future in order to obtain that remission; and he does more—he offers a present to Mr. Hastings for his own private use. Mr. Hastings' reply to this was :—

"I cordially accepted his submission and assurance of obedience, but [said] that I must absolutely refuse his present, which I did." He refuses the present.

If it stood here, and that, having refused his present, Mr. Hastings had renewed this proposal of the annual subsidy, this transaction would not have worn the black appearance which at present it does. But he repented of this refusal, and, having been disappointed, he says, in the execution of his plan for attacking Madajee Scindia's dominions—

"which I deemed and which proved to be of the most [material consequence, and, being thwarted in it by my colleagues, on the plea of expense, which was the only material objection made to it, I determined to accept of the offer which I had before refused. And, on my return from the Council, the day I believe that my plan was rejected, I sent to Sadanund, and told him I had reconsidered his master's offer, and would accept the two lacks of rupees; which I desired him to pay to the sub-treasurer, Mr. Crofts; meaning to apply this money to defray the expedition against Scindia, and thereby hoping to obviate the only objection which had been made to this important undertaking]."* Subsequently accepts it.

So that, on the very same day, Mr. Hastings, on his return from the Council, sends to this person and accepts that present which he had before refused, which had been offered him at the time this man was conducting a negotiation and

* Minutes of Mr. Hastings' Defence at the Bar of the House of Commons. Answer to the Eighth Charge. Printed for J. Debrett; London, 8vo., 1788, p. 154

12 MAY 1794.

endeavouring to procure a remission of the additional subsidy of five lacs. What must have been the man's understanding of this? Why, that Mr. Hastings had refused it in the first instance, being determined not to grant him a remission which it was proposed to obtain, but that, now he had altered his mind and accepted his present, he meant to remit the five lacs. But does he accompany this acceptance with any declaration that he still intends to adhere to his original intention of exacting the additional subsidy? He does no such thing. He receives the present with all the character and mystery of guilt attending it; he conceals it from his colleagues; and, the next day, with the greatest breach of faith to this man and greatest tyranny and injustice, he comes and renews the demand of this five lacs!

Conceals the receipt, and renews the demand of five lacs.

Here I must observe, *en passant*, that upon the acquiescence of the Council in this proposal a great deal is rested, and particularly upon the acquiescence of Mr. Francis in this additional demand, in the year 1780, when he now, as it is contended, had an acknowledged majority. But will your Lordships give any weight whatever to this argument of the acquiescence of the Council, when you hear that Mr. Hastings had, the day before, received a present of two lacs from this very person upon whom he is going to impose this additional subsidy, with which he never acquainted the Council either then or afterwards? Do you believe that the Council would, if they had been aware that so great a sum as two lacs had already been received, have acquiesced in Mr. Hastings' proposal for a renewal of the demand? Your Lordships will hold it to be certainly improbable that they should do so; and, I am sure, this argument of the acquiescence, in the first instance at least, you will dismiss as certainly unworthy your consideration. My Lords, the fact is that Mr. Hastings never, either then or afterwards, communicated this to the Council; that, a question having arisen respecting the quarter from which these two lacs had been received which had excited some suspicion, it was at last brought out by a confidential agent of his, in an examination before the House of Commons. But that it was his intention to conceal it your Lordships cannot doubt, in the first place, from his own statement, and in the next, from the examination of Mr. Larkins. Mr. Larkins expresses an apprehension that Sadanund might betray Mr. Hastings' acceptance of this present to some person or other; and he is

Acquiescence of the Council given in ignorance of the receipt of the present.

Evident intention of Mr. Hastings to conceal the receipt.

asked—whom he imagines Sadanund had betrayed the secret to? He says, 12 MAY 1794.

"I did not apprehend any particular person that Sadanund had betrayed Mr. Hastings to, but did suppose it very possible that Sadanund would have told Mr. Francis this very circumstance."

With this intention, therefore, to conceal it, can your Lordships doubt as to the fairness of this transaction? Can your Lordships doubt, upon the statement I have made, of the view and hope with which this was offered to Mr. Hastings? Can you doubt that Mr. Hastings, by accepting this present in the manner he did accept it, encouraged such a hope in the Raja? And, then, can your Lordships hesitate to say that he is guilty of additional injustice, in coming the next day, directly upon the back of the receipt of a present of this nature, and making this additional demand upon the unfortunate Raja? And then, as an argument, it is seriously urged here, that Cheyt Sing never claimed any such hope or expectation; because, forsooth, he never in any of his subsequent representations to Mr. Hastings alluded to this receipt by Mr. Hastings! I admit he never did so; and for the best of all reasons—he knew too well to whom he was writing. He knew too well what would have been the consequence of such an accusation on his part against a person possessing the power and authority with which Mr. Hastings was at that time invested.

Silence of Cheyt Sing upon the subject.

After having received a present to the amount of two lacs, as I have stated, Mr. Hastings, on the very next day, on the 22d of June, proposes to renew the demand for the additional subsidy. The same pleas of inability were urged this year, as in the former year, on the part of Cheyt Sing. However, the first payments of the subsidy were made at something of an earlier period than they had been in the preceding years. Your Lordships will find the dates of them accurately given in page 111 of the printed Minutes, in the note upon the Narrative; and you will find that by the 3d of August one lac had been discharged, and by the 24th of September two lacs and 47,000 rupees of the additional subsidy had been paid, which, taking in the amount of the two lacs received as a present from Sadanund, would have made a payment of the whole additional subsidy of five lacs, as exacted in the first year, with a deficiency of only 53,000 rupees. So that I have a right to state that on the 24th of September Cheyt Sing had actually discharged the additional subsidy of five lacs which Mr. Hastings and the

Payment in part of the subsidy.

12 MAY 1794. Council had determined to exact from him during the continuance of war. This payment of the two lacs was unknown to the Resident at Benares—was unknown to the Council, who were acquainted only with the additional demand of five lacs. And, after having made good his first payment up to the 3rd of August, at which time he had discharged a lac, other delays occurred, and Mr. Fowke wrote a letter to the Council complaining of, what is there termed, the evasions of Cheyt Sing. Mr. Hastings then, furious at this delay on the part of the Raja, comes with this letter of Mr. Fowke's in his hand to the Council, threatening his vengeance for this contumacious resistance to, what he terms, the just demands of his superior Government, which he was bound to comply with in so great distress; and he proposes to the Council to conduct itself with great severity towards him. He unfortunately, however, at the time he complained of the Raja's remissness in making this payment, still forgot to tell them that he had received a present of two lacs, which would at that time have left the Raja in arrear only 53,000 rupees. [Omitting] that transaction altogether, he complains of the Raja's contumacious evasions of this demand, and proposes severe measures. And here we have much stress again laid upon the acquiescence of Mr. Francis. In consequence of these letters, the Board order—

Anger of Mr. Hastings at the non-completion of the payment.

" that Mr. Fowke do inform the Rajah that the Board are much displeased with those affected delays, knowing his ability to make immediate payment of the subsidy; and that he peremptorily require him to discharge it. Ordered;—that Mr. Fowke be desired to remit the sum when received, by shroffs if possible, or by any safe mode of remittance, to Major Camac, for the expenses of the detachment under his command; and that Major Camac be advised accordingly."

Mr. Fowke is directed to insist on immediate payment.

My Lords, the Counsel say this happened [on the 21st of August; but it happened,] not, as is stated by some inaccuracy, on the 21st of August, but, as the date of the consultation will prove, upon the 7th of September. They say;—" This happened, as it will be material to recollect, in order to apply it to the subsequent part of the charge, upon the 21st of August 1780, and it is in page 93. So that here Mr. Francis concurs in the resolution of the Board with Mr. Hastings. By his opposition to that resolution he might have carried it the other way;"—arguing always that Mr. Francis could command the absolute acquiescence of Mr. Wheler:—" 'That he, Mr. Fowke, do inform the Rajah that the Board are much displeased with these affected

Alleged acquiescence of Mr. Francis.

delays, knowing his ability to make immediate payment.' 12 MAY 1794.
Did Mr. Francis, or did he not, know the ability of the Raja to make immediate payment, in 1780, when he signed a consultation stating that to be a fact within his knowledge? I have so high a respect for the character of Mr. Francis that whatever he states to be a fact I believe to be a fact, merely because he states it; and, upon the ground of his having stated that in the year 1780, I take it to be a fact beyond all controversy, and they are calumniators who would state the reverse: it is a fact within the knowledge of Mr. Francis that they were affected delays on the part of the Raja."* This is the argument which the Counsel found upon this transaction.

Mr. Francis not present at the consultation.

It occurred to me, upon reference to the dates, that, on the 7th of September 1780, it was not very probable that Mr. Francis could have been present in the Council. When the learned Counsel on the other side recollect an event which had lately taken place, they will see that it was impossible that he should be there. But I own I was surprised that there should be so clear evidence of his not being present in the very page from which the learned Counsel was quoting. At the same time that he was arguing upon his supposed acquiescence in this minute, at the consultation in which he supposed him to have been present, if he had only been at the pains to look at the top of the page, where the names of the members are inserted who were present at the Council, he would have found that if Mr. Francis had been there he would not have had a majority, because Sir Eyre Coote and Mr. Hastings were both present; in the next place, that Mr. Francis was indisposed! And here again is another of those brilliant arguments founded upon the acquiescence of Mr. Francis, which all along have pretty much as good foundation in fact as the instances I have stated.

Further delays on the part of the Raja.

I was a little inaccurate in saying the two lacs and a half were completed on the 7th: they were not completed till the 24th. But additional complaints after this came from Mr. Fowke, stating that, notwithstanding all his promises, the Raja still put off the payment by affected delays. This letter of Mr. Fowke is dated the 27th of September, when, as I have stated, two lacs and 47,000 rupees of the addi-

* See speech of Mr. Dallas, vol. iii. p. 98.

12 May 1794. tional subsidy had been actually discharged. Mr. Hastings says:—

"Such an instance of contempt shown by the Rajah of Benares to the authority of this Government, at the time in which his fidelity and gratitude for the many obligations which he owes to it ought to have prompted him to make a voluntary tender of that aid which he now refuses after repeated promises to grant it, merits some mark at least of the resentment of the Board. For that reason, I must recommend that Mr. Fowke be directed to demand instant payment of the balance due of his subsidy; and, if he shall not have paid it at the time of the receipt of this letter, to exact from him in the name of the Board the further sum of one lack of rupees, as a fine for his past disobedience; that, to enforce this order, Brigadier General Hibbert be directed to issue orders to the commanding officers of the battalions of the nearest station to Benares to march immediately to that place, and to wait such orders as may be hereafter transmitted to them. In the meantime the Board may be informed of the reception given by the Rajah to the present order, and it is hoped that it may be such as shall render it unnecessary to proceed to extremities against him."

Mr. Hastings proposes the infliction of a fine of one lac.

My Lords, here is Mr. Hastings then, upon the receipt of this letter upon the 27th of September, proposing to the Council and carrying a resolution, in consequence of this delay in the payment, to impose a fine upon the Raja of a lac of rupees for his disobedience and his contumacy, and to enforce it by ordering a detachment from the nearest station.

My Lords, I will not repeat what I have stated of the amount of the subsidy that had been discharged and included in the two lacs: I will here urge it as another argument respecting what has been alleged about the acquiescence of the Council, that, at the time, Mr. Hastings never informed them of the receipt of two lacs, which probably would have made a great difference in their determination. Whether in consequence of this threat, or not, I will not presume to determine, however, after some more delays, on the 18th of October, Mr. Fowke writes to the Council that the whole of the balance had been discharged; and the march of the troops, on the receipt of this letter from Mr. Fowke, was countermanded. This letter was received at Calcutta on the 2nd of November. What happened?—This fine was remitted. The march of the troops was countermanded; but did, therefore, the demands on the Raja for this year cease?—No, my Lords; on this very day, on the 2nd of November, when they received accounts of the completion of this payment of the additional subsidy of five lacs, which with the two that had been taken from Sadanund made, in the course of the year, a payment of seven, in addition to the stipulated tribute—

Payment of the balance of the subsidy.

The fine is remitted.

on that very day Mr. Hastings comes and proposes in Council another demand:—to ask the Raja to furnish such cavalry as he could spare for the assistance of the Company. 12 May 1794.

Mr. Hastings makes a further demand on Cheyt Sing for cavalry.

I here must admit, what has been urged and dwelt upon by the learned Counsel, that the distress of the Company's affairs was now at the greatest height. They have not exaggerated the distress of that period. They have not gone too far in borrowing a description from that specimen of matchless eloquence which, if it existed without any other proof, would hand the author of it down to posterity as the most eloquent man that existed.* It was at that period when Hyder Ali [had invaded the Carnatic with a force of 100,000 men, and was threatening the settlement of Madras.] It was at this period of horror everywhere prevailing over the affairs of the Company, in this situation of distress, I admit, that Mr. Hastings made an additional demand of cavalry from the Raja of Benares. But though the distress increased, though the calamities of the Company increased to this alarming degree, were there, therefore, to be no demands upon any but this unfortunate Raja? was he the only person to be called upon to contribute upon all occasions of these calamities? Was there a war in Europe,—to whom do they apply but to the Raja of Benares? Was the settlement of [Madras] threatened with an attack,—to whom do they apply but to the Raja of Benares? Is Bombay in danger?—has Hyder Ali made an irruption into the Carnatic?—do you apprehend a Mahratta invasion? Exact a subsidy from the Raja of Benares. All this without a contribution, however small, from any other persons who were members of the same state and equally interested in the preservation of Benares! Let them state these calamities to amount to what they state them, and let them show that horrible scene of desolation and ruin produced by the irruption of Hyder Ali into the Carnatic, and then let them justify this demand, if they can, which is made singly upon Cheyt Sing; completed upon the very day on which he made that enormous payment of seven lacs, at the time when no other member of the British empire was called upon to contribute.

Distress of the Company.

Injustice of demanding aid from Cheyt Sing exclusively.

Your Lordships will not justify, even on the principle of necessity, demands so extravagant and disproportioned as these demands, thus made and increased upon the Raja. And, when they were thus increased upon him, will you

* See Mr. Law's speech, vol. ii. p. 631.

12 May 1794. wonder at his evasions—at any endeavour that he might make to avoid such demands being made upon him at pleasure? The instant you departed from the terms of the agreement which secured him in the enjoyment of his territories, under the payment of a certain stipulated tribute and nothing more, he had no longer any security. The precedent once established, it might be increased upon him, as it was increased upon him, either according to the exigencies of the state, or the avarice or vengeance of the person who presided in it.

Cheyt Sing justified in evading demands made in breach of faith.

Will you, therefore, think that Cheyt Sing was criminal for endeavouring by pretended excuses, even if they could be proved to be pretended—by any excuses he made—to avoid subjecting himself to oppression of this nature; or will you not rather condemn the person who had driven him to this necessity, who, contrary to good faith, policy, and that sacred trust he held for the honour of Great Britain, exacted those demands from him, in direct contradiction to his engagements, supported by no right, and not even justified upon that principle of necessity which he invariably urges as the principle of all his actions? You will not admit that it can be justified upon such grounds.

Two thousand cavalry demanded.

He made then, on the 2nd November, the very day that he received an account of the payment of the additional subsidy—the five lacs, making, with the two lacs from Sadanund, a payment over and above his stipulated tribute in that year alone of seven lacs of rupees—he asked for an addition of cavalry. This, in the first place, was stated in general terms—as many as the Raja could spare. Afterwards a specific number was mentioned, and 2,000 were demanded. My Lords, upon the lowest computation, the expense of 2,000 cavalry would be greater than any thing that had been demanded from him in this year. But it is said that the expense would not be greater to him, and would not be felt by him at least, because he had these troops actually on foot; and he was only called upon to furnish as many from those which he had now in his pay [as he could spare], and whom it would not be thought unreasonable in a superior Government not to leave idle in his possession, at a time of so much necessity.—I hope I state the argument fairly: I am sure I mean so to do.—When they state this so broadly, I should have thought it incumbent upon them to have stated some proof of their assertion; and I shall be glad to know where they find, in any evidence that has been pro-

The number of the Raja's troops alleged to be in excess of his requirements.

duced, any proof that will satisfy your Lordships' minds that the Raja had such a body of cavalry as could be spared with safety from his collections? 12 MAY 1794.

In the first place, it is stated that they were not necessary to his collections; and this is rested upon the authority of Mr. Markham. I have to refer your Lordships principally, for an answer to this, to the evidence which was produced by us in reply from Mr. Duncan's report; in which you will find, from the spirit of the zamindars in that country, that, in the time of Bulwant Sing—that, in the time of Cheyt Sing—and that, even after the expulsion of Cheyt Sing, it was necessary to employ a considerable body of troops in order to enforce the collection of the revenues. But I would refer also to an evidence of their own, produced for another purpose, namely, to prove Cheyt Sing's disaffection: I mean, a letter from Mr. Graham, which your Lordships will find in page 1604 of the printed Minutes, in which he is giving proofs of Cheyt Sing's disaffection; one of which is, that at a period, in 1777, he had been collecting troops at Ramnagur, which, he says, was additionally suspicious, because the removal of his troops from the mufussal at this period of the season is evidently incompatible with the success of his collections.

A large force necessary for the collection of his revenue.

Evidence of Mr. Graham.

Will your Lordships then adopt, not only after the testimony we have given ourselves, but upon this which they have given—will you adopt what Mr. Markham says—that a hundred horse will be sufficient for his collections; or will you believe what Mr. Duncan says—that from the time of Bulwant Sing it had been necessary to use a considerable body of troops in enforcing the collections; and what Mr. Graham says—namely, that his bringing them from the collections was a suspicious circumstance, because they could not be spared without endangering their failure?

But what is the proof that he had them at all—at least, to the number that has been stated by the Counsel? Some he certainly must have had. Mr. Markham says that he had from 2,500 to 3,000.—You will find it in page 1691 of the printed Minutes:—

Evidence of Mr. Markham as to the number of the Raja's troops.

"What was the number of his cavalry at that time?"—"I thought he had between 2,000 and 3,000; 2,500 I thought he had, but afterwards it proved that he had many more, to the number of 3,000—I believe, more than 3,000; that is, I mean after the disturbances were over, and that we had experienced his horse in the field."

Why, my Lords, what sort of proof is this? Mr. Markham, without giving you any account of his means of knowledge,

12 May 1794. says, he thought he had 2,000 or 3,000. What made him think so? Why, he thought so from the number of horse he had in the field when in actual war against the British Government. How does it appear that he had these troops, from which it is now contended that it was an act of contumacy and disobedience in him to refuse to contribute such a number as the necessities of the Company at that time required? Why, my Lords, such proof as will not be regarded by your Lordships. And the heaping upon him two additional demands in this manner, I am sure, whatever the necessities of the Company may be stated to be, must be regarded by your Lordships as an act of monstrous injustice and oppression.

Examination of the Raja's expenditure for the year 1780.

In order to set this matter in a clear light, and to conclude upon this point, it would be worth your Lordships' while to attend to what the amount of the Raja's expenditure for that year must have been. He paid, as your Lordships will find in the printed Minutes, page 70, twenty-two lacs, seventy thousand rupees, which is [220,000] pounds sterling, a fixed stipulated tribute. This tribute he was to remit to Calcutta. And, my Lords, we have given in evidence that from the expense of remittance he was allowed a deduction of two *per cent.*, which your Lordships will find, page 334 of the printed Minutes, in a letter from the Council to the Directors, stating that Cheyt Sing has now agreed to pay the amount of his tribute, being sicca rupees 22, 66, 180, into the treasury at Calcutta, by equal monthly kists or instalments, and is to receive two *per cent.* premium on the amount for the charge of remittance.

Annual tribute.

Now, my Lords, examining Mr. Markham upon this question—in page 1729 of the Evidence—we asked him:—

Loss on the expense of remitting the tribute to Calcutta.

"What does the exchange of remittance of these sums of money amount to?"—"I cannot inform you." "Do you not think they amounted from two to fourteen *per cent.?*"—"The exchange, as I yesterday stated, varied every day." "Do you think it ever was less than two *per cent.?*"—"I do not believe it was ever less than two *per cent.*" "Do you think it sometimes amounted to above fourteen *per cent.?*"—"I have known fourteen *per cent.* and I have known two and a half, which I put as extremes." "Whether six *per cent.* be a proper medium?"—"The honourable Manager is carrying me away without necessity, for the exchange of twenty-two lacks and a half or twenty-three lacks is settled in the pottah and cabooleat of the Rajah, and therefore I refer to that for a certainty." "Whether six *per cent.* be a fair medium?"—"The fact is in the pottah and the cabooleat." "What in fact does the remittance of money from Benares to Calcutta cost upon an average, as near as you can tell?"—"I will answer the question;—that what he was to pay was an agreement between himself and the Company; but, with respect to any other sums, I can say no more than

what has been stated, which was six per cent.—I should say it might be seven or more." 12 MAY 1794.

Now the first thing I have to remark here is, that that assertion of Mr. Markham—that what he was to pay was settled by an agreement between him and the Company—is expressly contradicted by that letter which I have read from the Council to the Directors, at the time that the payment of this tribute was first of all settled, in which it is stated that there was no agreement made, further than that he should be allowed two *per cent.* for the expenses of remittance. Then, if the expense of remittance was, as Mr. Markham has stated, from six to seven *per cent.*, the Raja must have been at a loss of so much as that sum exceeds the two *per cent.*, which is the only allowance made to him in the terms of the agreement; for there is no such agreement as Mr. Markham states, the only indulgence being an allowance of two *per cent.* for the expense of remittance, and he must himself have stood the loss of all over and above that in the expense of remittance. Stating this from Mr. Markham—which I dare say was not unfavourably stated—at six or seven *per cent.*, deducting two *per cent.* from that, the expense of the remittance of the stipulated tribute would be about a lac of rupees, or 10,000*l.* sterling. It is not necessary, I believe, to calculate the expense of remittance upon the war subsidy. This, as it was paid at Benares, was 54,000*l.* sterling. The present in gold mohurs by Sadanund would be 23,871*l.* The whole making 346,564*l.* That would be the amount of the demands made upon the Raja in that year, taking them altogether. Amount of demands for the year.

If, in addition to this, [the fact is considered of] his whole net revenue being stated by Mr. Markham at forty-six lacs, and what he could save, exclusive of the annual tribute, being estimated by him at eleven lacs, I will leave your Lordships to judge how much could be left to this person of his revenue, in that year in which these increased demands were paid. Out of this eleven he paid at once seven lacs in a present by Sadanund and in his additional subsidy. I state the cavalry at so much more. And, with the expense of remittance, and the establishment which a man in his situation must keep up, I am convinced, if you add them all together, your Lordships will find them, upon the showing of figures which cannot need any argument whatever, to exceed the whole amount of his revenue that year. Amount of revenue.

12 May 1794.

Conduct of Mr. Francis.

. My Lords, I have not troubled your Lordships, upon these two demands of the additional subsidy of five lacs in the year 1780, and upon the demand of cavalry, with any arguments upon Mr. Francis' acquiescence. During the period that I speak of, the concealment from him and from the Council of the receipt of the two lacs by Sadanund would of itself effectually destroy any arguments which the Counsel can derive from that supposed acquiescence. But, my Lords, at that period Mr. Francis certainly stood in somewhat of a particular situation; and, at the time of the last demand of cavalry, on the 2d of November, 1780, I believe he had withdrawn himself from an ineffectual opposition to the measures which he found it impossible for him to prevent. He was then on the eve of his return to England, and actually left Calcutta in the course of the very month when this last demand was made. But I deny that Mr. Francis could ever have had power to prevent it.

Objection offered by Counsel to his examination.

I offered to the Counsel—and I wish that they could now accept it—to call Mr. Francis into that box and subject him to all their cross-examination; and I am convinced of what your Lordships' judgment would have been upon his evidence —if they had not prevented it—with respect to the influence he had over Mr. Wheler, and the power of preventing the constant repetition and extension of the demands upon the Raja of Benares. The question was asked and the answer was given. Mr. Francis gave a decided No! to the question—which by some accident does not appear upon the printed Minutes. Perhaps it was proper it should not, your Lordships having determiued not to receive his evidence. The grounds of that determination it certainly is not for me now to dispute: I dare say your Lordships were actuated by the best principles in giving the determination you did. But, when the Counsel were arguing so much upon the supposed acquiescence of Mr. Francis, I should have thought it common candour and common fairness, where nothing more than their consent was necessary in order to have it substantiated or contradicted by his testimony, that they would have given that consent, and that we should have had an opportunity of examining him to those points upon which so much stress has been laid. But it seems that these gentlemen, though anxious for the honour of Mr. Hastings and for their own reputation for candour and fairness, are yet more anxious for the principles of equity and justice and the esta-

blished rules of proceeding; and, however it might be necessary, and consistent with their reputation for candour and for fairness, yet, rather than that the rules of proceeding should suffer any wound by a deviation from what they contend to be the established practice, that they would renounce that advantage, and that they would refuse their consent to the examination of Mr. Francis, even upon the point upon which they had so nearly attacked him in his private character, and upon which they had laid so much stress in the defence of their client. Therefore, upon this ground, I have little fear of what your Lordships' determinations will be. 12 May 1794.

Recapitulation.

And here I shall conclude my observations upon the first part of these transactions, which I contend do constitute a main branch of the criminality of the prisoner with respect to the present Charge;—that he did, in the year 1778, contrary, as I contend, to his engagements with the Raja, but, whether contrary or not, upon principles and in a mode which justice cannot warrant—that he did, in 1778, contrary to faith and to the performance of his duty, exact an additional subsidy of five lacs from the Raja; that in 1779 he repeated that unjust demand, and enforced it with measures of unnecessary severity, and added to the punishment of the Raja by an additional payment of 2,000*l.*; that in 1780 he again repeated it, under this most odious circumstance of having secretly and in the dark, the very day before, received a present from the confidential agent of this person, which, as I contend, could have been offered with no other view than with a hope of the remission of the subsidy; that, upon the very day in which he received the accounts of the payment being completed for that year, he made another demand for a body of cavalry, the expense of which would have been more than equal to all the demands put together in the course of this year, and which, if added to the rest, would literally have left the Raja nothing remaining of the revenue he derived from the territory of Benares.

Mr. Hastings proposes to visit the upper provinces.

Under these circumstances it was, then, that, in the beginning of the year 1781, the whole of these demands having been satisfied—after evasions, I admit, but which, as I before contended, are more to be considered as proofs of Mr. Hastings' criminality than as instances of disaffection in the Raja—at the beginning of the year 1781, when all these demands had been satisfied, Mr. Hastings proposed to make a journey into the upper provinces. And, my Lords, the purpose with which he undertook that journey it will be material for your Lordships to remark. The purpose was,

Ostensible objects of the journey.

12 May 1794. as you will find in page 103 of the printed Evidence, in Mr. Hastings' minute—first,

"to visit the province of Oude, in hopes that, from minute and personal observations of the circumstances of that country, the system of management which has been adopted, and the characters and conduct of the persons employed, he may possibly be able to concert and establish some plan by which the province of Oude may in time be restored to its former state of affluence, good order and prosperity."

I suppose it means that this was the first object of the journey. The next object was, that it would afford him—

"an opportunity of negotiating effectually with the Berar Government, and fixing Moodajee Boosla to act decidedly and openly in our favour."

This minute is on the 21st May, 1781. These, in the first instance, are the reasons assigned by Mr. Hastings for this journey into the upper provinces. At this time, as I shall afterwards have occasion to remark to your Lordships, the charges against Cheyt Sing, according to Mr. Hastings' present vindication, had now amounted to their greatest height—the charges of disaffection, of bad police, of premeditated rebellion, evinced in his conduct, as it is said, by testimony incontrovertible.

Mr. Hastings mentions the two objects of his journey to be—first, "to visit the province of Oude, in hopes that, from a minute and personal observation of the circumstances of that country, the system of management which has been adopted, and the characters and conduct of persons employed, he may possibly be able to concert and establish some plan by which the province of Oude may in time be restored to its former state of affluence, good order and prosperity;" secondly, that it would afford him "an opportunity of negotiating effectually with the Berar Government, and fixing Moodajee Boosla to act decidedly and openly in our favour."

No mention of Cheyt Sing in the first minute.

In this first minute, there is not one word of his having any intention of making any alteration, or doing anything whatever, with respect to the Raja of Benares. However, in a subsequent consultation, on the 3d of July, which was three or four days before he actually set out, which is in page 104, it is there resolved—no mention having been made of it, by the bye, in any of the previous minutes of either Mr. Wheler or Mr. Hastings, who at that time were the only members remaining in the Council—in the credentials it is said, that—

"Whereas besides the said purposes"—mentioned quite incidentally, as a collateral business which he might have an opportunity of executing

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en passant in his way through Benares, but which was nothing less than to exact a fine of 500,000*l.*, and in case the Rajah did not comply to divest him of his rajahship,—"it is hereby resolved that the Governor General shall be and is invested with full powers and authority to form such arrangements with the Rajah of Benares for the better government and management of his zemindary, and to perform such acts for the improvement of the interest which the honourable Company possesses in it, as he shall think fit and consonant to the mutual engagements subsisting between the Company and the Rajah."

Mr. Hastings is subsequently authorised to form arrangements for the better government of Benares.

This is all that you hear, in any ostensible and authentic document—of his private communications with those he could trust I shall have afterwards to speak—but this is all your Lordships hear, in the first instance, in any ostensible and authentic document, of any intention that Mr. Hastings had, in taking this journey, of doing anything with regard to the Raja of Benares—that he was incidentally "to form such an arrangement with the Rajah of Benares"—not to inflict such punishments on him as his contumacy and his pretended rebellion appear to deserve—but "to form such arrangements with the Rajah of Benares for the better government of his zemindary, and to perform such acts for the improvement of the interest which the honourable Company possesses in it, as he shall think fit and consonant to the mutual and actual engagements." This is the avowed and ostensible purpose of Mr. Hastings going at that time to Benares, as he afterwards contends, in possession of proof of the crimes of Cheyt Sing, with a determination to inflict an exemplary punishment upon him! This is the way in which he states it for the information of his superiors; and this is the authority which he gets in the credentials given him for his conduct during that journey!

His real intention of levying a further fine upon Cheyt Sing.

My Lords, it appears, however, that this was not the real purpose. The settlement with the Nawab of Oude, the negotiation with the Raja of Berar were, as your Lordships will think, inconsiderable objects compared with that which is only collaterally and incidentally stated—compared with what his determination was with respect to the Raja of Benares—a determination, in consequence of crimes imputed to him—which I shall afterwards have to speak upon to your Lordships—to exact from him a fine, over and above all he had demanded in this year, of 500,000*l.*, and, if he refused to pay it, to dispossess him of his zamindary.

How does it appear that this was his intention? It appears from his own Narrative, which your Lordships will find in page 114 of the printed Minutes; and he appeals to Mr. Wheler, with whom he had communicated—jointly

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His conversation on this subject with Mr. Wheler.

with whom he had entered these minutes on the consultations—jointly with whom he had himself drawn up these credentials—he appeals to Mr. Wheler for reference to a private conversation, in order to prove what were his real intentions:—

"He will doubtless recollect the conversation which I had with him on the eve of my departure from Calcutta; our mutual opinion of Cheit Sing's past conduct; mine of the justice and policy of exacting an exemplary punishment for it by a large pecuniary mulct; the sum to which I then declared my resolution to extend it; my conviction of his ability to pay it, and the two alternatives on which I had resolved, if he refused to submit to it. He will also remember that I bespoke his confidence in the means which I should use for this end, and his support in the issue of them. I intreat him to give me his formal and circumstantial attestation of these facts, and that he will permit it to be inserted in this part of my narrative. After such an appeal, it would be as superfluous as indelicate to call in the aid of other testimonies. If all that were required were no more than to ascertain that I did hold such a conversation as that which I allude to with him, the conclusion will be much strengthened by its agreement with declarations made by me on the same subject, and nearly at the same point of time, to others. I shall, therefore, require similar attestations from Major Palmer, my military secretary, and from Mr. Anderson, my appointed assistant on this deputation. With these references and their result, I shall make my last and solemn appeal to the breast of every man who shall read this, whether it is likely, or morally possible, that I should have tied down my own future conduct to so decided a process and series of acts, if I had secretly intended to threaten or to use a degree of violence for no other purpose than to draw from the object of it a mercenary atonement for my own private emolument, and suffer all this tumult to terminate in an ostensible and unsubstantial submission to the authority which I represented?"

My Lords, this is the indubitable appeal which he makes to that conduct which, he says, had tied him down to a decided process and series of acts; having neglected in all these minutes—in the credentials—in all that had previously passed in any public manner—to state these things which were then, as he says, notorious and fixed, and which he thought proper not to put upon the minutes, but to confine to the private breast of Mr. Wheler. And, accordingly, Mr. Wheler gives him the testimony he requires; which your Lordships will find in a note, stating that he understood it to be Mr. Hastings' intention either to inflict an exemplary punishment on Cheyt Sing, or to make him pay largely for his pardon.

Corrupt principle of the design.

I cannot state this to your Lordships, I am sure, without exciting your indignation at once at the assertion of so horrible a principle as that money should be made the foundation of any judicial proceedings. If this be the

principle of criminal justice, all the securities of civil society are torn up by the very roots. Admit once this principle, and all the rules and maxims of distributive justice are at an end for ever. Government has no longer an interest in the preservation of the people: it will look no longer to the prevention of crimes or to the encouragement of those arts which make men happy: it has, on the contrary, an interest in disorder, an interest in promoting crimes as the fruitful source of fines and confiscations. This is the principle of criminal justice asserted by Mr. Hastings: and what is this but a character of the most odious tyranny that ever existed? 12 May 1794.

God forbid, my Lords, that Mr. Hastings should be tried upon those principles himself! We are now engaged in a war the exigencies of which are already pressing. We are now engaged in a war the exigencies of which, before we may meet again, may possibly be considerably increased. I do not, I think, say too much, if I say that it is possible Mr. Hastings may be convicted upon the charges that are brought against him. Acting as I do from a thorough conscientious opinion of his guilt, I must expect that he will be so. About the period at which your Lordships, probably, will be called upon to pronounce your verdict upon this great cause—which, I trust I shall not be accused of endeavouring to promote delay if I say, I think cannot be reasonably expected before the next session of Parliament, considering the immense quantity of matter you have to consider and to digest before you decide—I say, you will be called upon to pronounce that verdict about the time when we may be called upon to provide new resources for the expenses of this campaign, possibly, for those that are likely to arise in another campaign. Suppose, under such circumstances, any member of his Majesty's Councils were to stand up in your Lordships' House and to address you thus:—"The country is called upon for new resources for the prosecution of this necessary war. The country is already burdened. You have before you a great delinquent, convicted of the most enormous crimes, and who has amassed great wealth. Convert his delinquencies—I use his own words—convert his delinquencies into a benefit for the state. Make him pay largely for a pardon. Let his punishment be a fine; and let not that fine be proportionate to his delinquencies, but to the exigencies of the state. Let it go in aid of the public burdens of the country."

12 May 1794. My Lords, would such a proposal meet with anything but one voice of universal reprobation from all your Lordships, if any person should be so forgetful of the character which he holds in this august assembly as to venture to propose that? What friend of Mr. Hastings, what lover of justice, but would cry out against it? And yet this is the principle upon which Mr. Hastings acted against others! God forbid that his principle should be acted upon against himself!

Mr. Hastings proceeds to Benares.

With this view, then, of converting Cheyt Sing's crimes into a benefit for the state, Mr. Hastings proceeded to Benares. I say, in addition to the enormity of this principle, the prevarication, the contradiction, the mystery and concealment attending the whole of the transaction, the concealment of his motives, when he assigned them in his ostensible minutes, does afford additional grounds of suspicion, which your Lordships will do well to consider when you take into your minds the whole of this transaction. But admitting, for a moment, this enormous principle to have been in some degree justifiable, Mr. Hastings, it seems, proceeded to put it into execution upon the ground of certain alleged delinquencies of Cheyt Sing. My Lords, we shall do well to inquire what these delinquencies were. In the first place, his delay in the payments of the different demands, during the three years in which they had been made and repeated upon him; in the next place, his not having yet performed the last demand with respect to cavalry; then the accusation of bad police in his country; and lastly, the crime of disaffection and premeditated rebellion against the Government upon which he was dependent.

Alleged delinquencies of Cheyt Sing.

My Lords, if these crimes were true, taken altogether, I will admit with the learned Counsel that the punishment was not too great, though the principle upon which it was intended to be inflicted was flagitious to the highest degree. So far from being too great, I am ready to admit, on the other hand, that, if he was really guilty of disaffection and premeditated rebellion, which afterwards broke out into overt acts against the Government, he had not incurred a fine, but a forfeiture of his zamindary, and that Mr. Hastings was culpable for insisting on anything else. The learned Counsel seem to think they have some advantage in my making this admission. I am sorry I cannot have an opportunity of hearing an answer to what I say upon this subject, to see what they could say, because I am at a loss to discover it. But I give them it, little fearing that I shall show that

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Mr. Hastings did not believe the charge against him true; and that it has only been made since in order to justify those proceedings which otherwise could not be supported.

Fabrication of the charge imputed to Mr. Hastings.

Evasion of the demand for cavalry.

I shall now consider, first of all, the delay and evasion of which, it is contended, he had been guilty, with regard to the last demand of cavalry. I admit, he stated that he had not so much cavalry,—which it has not been proved he had. He had offered to furnish a certain number, but, as Mr. Markham tells us, he had never mustered a single man. However, there is this remarkable in Mr. Markham's evidence, that he says, though he frequently called upon Cheyt Sing to muster this cavalry, yet he acknowledges he did not receive any orders from Mr. Hastings, and did not know to what place they were to be sent; and that, if they had been mustered, he should have had to apply for instructions upon that subject. I do not know what other inference is to be drawn from this, but that Mr. Hastings had no real intention to make use of this cavalry, and that the demand was made merely to provoke resistance, in order that he might have an opportunity, upon the horrid principle he had established, of confiscation and punishment.

Defective police.

The next charge is that of bad police; and a variety of evidence has been produced, as far back as the year 1777, in order to support this charge. In the letters of Mr. Graham, there is mention of Cheyt Sing's having in one instance, I think, gone to his forts of Lutteepoor and Bidjey Gur under pretence of a visit to his diwan; of having supplied them with stores; of having drawn cannon upon some particular occasion, which he said was for the purpose of punishing refractory zamindars; and further assertions that he had collected troops at Ramnagur; that he was frequently drawing cannon and assembling troops under cover of night; and such like accusations, in the year 1777, previous to the first of these demands.* The same is repeated in some degree in 1779, and in the year 1780. In one case, Mr. Fowke mentions his having assembled troops. He acquits him of having any bad intention in doing so, but requires Mr. Hastings' instructions upon the subject. Of so little importance did it appear, that it does not appear that Mr. Hastings thought it worth while to send instructions to Mr. Fowke as he required.

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* Letters of Mr. Graham, the Resident at Benares; printed in the "Minutes of the Evidence," p. 1602, *et seqq.*

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Delay of Mr. Hastings in noticing the alleged offences of Cheyt Sing.

But I have this to remark with regard to all of them, that it was an extraordinary thing that, during the whole course of these transactions, when Mr. Hastings seems determined to harass, ruin and oppress, this unfortunate Raja, although he had received these complaints so early as the year 1777, yet he should never have thought it worth while, even at this time, when accusing the Rajah of contumacy and disobedience in his reluctance to comply with the demands of an additional subsidy—that he should never hint, in the slightest or remotest degree, at any one of these charges upon which he now builds his right to inflict so heavy a punishment.

Evidence of Mr. Markham respecting the Benares police.

With regard to this bad police, however, there is other evidence produced, and particularly from Mr. Markham. Mr. Markham has told us that murders were frequent in the town of Benares; that the relations of persons murdered, failing of redress of the Raja, had in several instances, as is customary in that country, brought the murdered bodies to his door and sought for redress; and that in one instance, I believe, he had gone with them to the Raja. It is upon these facts Mr. Markham, in his evidence, supports a charge against the Raja for bad police at that time existing in the territory of Benares.

Mr. Markham in part responsible for the security of the city.

Now it should seem a singular thing, that if there was a fault in this respect, perhaps it was not imputable more to the Raja than to Mr. Markham himself; for that Mr. Markham was entrusted with two companies of sepoys for the protection of the town of Benares, and, I shall therefore contend, was in some degree responsible for any disorders that might be committed in the town. And, my Lords, here I must refer you to a very extraordinary part of Mr. Markham's evidence, which your Lordships will do well to weigh and to consider. In page 1711 of the printed Evidence, your Lordships will find this question put to Mr. Markham:—

Examination of Mr. Markham.

"Was the interference of the police of the town of Benares any part of the duty of your office as Resident?"—"I think it was,—not only as Resident, but as a man. If a murder is committed, I consider it every man's duty to apprehend a murderer." "But do you conceive it a part of your duty, as Resident at Benares, to interfere with respect to the regulation of the police of the interior part of the country?"—"If the Court will recollect, in the memorandums I have just read, there is a direction for me, with Cheyt Sing's consent, to appoint a man in the cutwally to take down the proceedings of the Court; and I carried a letter to Cheyt Sing desiring him to allow it—ordering him to allow it." "Had you a guard at Benares?"—I had." "What did it consist of?"—"Two companies of sepoys; but they were never armed." "Whose sepoys were they?"—"They were raised by Lieutenant Stalker and paid

by the Rajah." "What was the expense of that guard—the annual expense?"—"I do not recollect the expense, but believe it to have been the same as that of the two companies in our own service." "By whom were they commanded?"—By Lieutenant Stalker." "By whom was he appointed?"—By the Board, at my requisition." "Under whose orders were they?"—Under the orders of the Resident." "Now for what purpose was that guard given?"—"For my own protection and the protection of my house." "For nothing else?"—"Not that I know of." "Was not that guard given to you for other purposes than the mere protection of your house and person?"—I do not know that it was." 12 MAY 1794.

Your Lordships will observe that the question was repeatedly pressed upon him; that the witness had sufficient time to recollect himself; that he was sufficiently put upon his guard; and that his answer to this question thus repeated was uniformly, that these two companies of sepoys were given to him for the protection of his own person and his own house, and for no other purpose:—

"How did you represent to the Governor General and Council that that guard was given to you?"—"That must be in writing."

The Counsel for the defendant said, that, if the representation was in writing, they should object to the question. The witness was asked,—

"Have you any recollection of the representation you made to the Council concerning this guard?"—"I certainly applied for Lieutenant Stalker to command it. I do not recollect the letter; nor is it likely I should."

Then a book endorsed "Bengal Public Council, 12th February to 10th April, 1781," was shown the witness, and he was asked,—

"Is that the letter you wrote to the Governor?"

The witness read the following extract:—

"Honourable Sir and Sirs, Cheyt Sing having offered me a guard of two companies of sepoys of one hundred men each, for my protection and that of the town of Benares, I think it right to acquaint you with this circumstance, that, if you think it proper, an officer may be appointed to command them, as they may be useful at some future period if taught the European discipline."

Then the witness was asked,—

"Was that guard ever employed in the assistance of the police of Benares?"—"It was." "Under whose orders was that guard employed?"—"Under my orders."

Now I only wish your Lordships to remark, first of all, upon what I think appears an extraordinary inconsistency in Inconsistency of his evidence.

12 MAY 1794. this evidence, that, in the first place, Mr. Markham says that these sepoys were granted for no other purpose but for the protection of his own house and person, and, when he is further pressed, it does come out that they were given him also for the protection of the town of Benares, were frequently employed in matters of police, and under his absolute direction and order. And then, when a charge of bad police is brought against the Raja of Benares by Mr. Markham, I wish your Lordships to consider how far that charge is applicable to the Raja, as distinct from Mr. Markham; and, if the police of the territory is bad, whether Mr. Markham himself is not in a considerable degree criminal on that account?

Letters from Mr. Graham and others.

The other instances that are produced with regard to the bad police consist, as I state, in a variety of letters from Mr. Graham and from the Residents at Benares, from as early a period as 1777, from Major Eaton, from a Major Osborne, and from Sir Eyre Coote in one or two instances, I believe: the uniform tenor of their complaints being, the disorders that had taken place between the sepoys and zamindars; which, it seems, were to be considered at once as proofs that the sepoys were in the right and that the zamindars were the aggressors; that the violence and disorders were attributable only to them; and that Cheyt Sing, as the head of the territory, was responsible for them; and that all this was to be concluded and decided without any inquiry of any sort upon the subject.

I would like to refer your Lordships shortly—It is impossible to go through the whole of this evidence within the compass of time which I have prescribed to myself, and which I hope I shall not infringe, but I should wish just to refer your Lordships to one part of it, for a proof in what manner and upon what principles these gentlemen acted who are so forward with these complaints. In a letter from Sir Eyre Coote to Mr. Fowke, August 3d, 1780, complaining of an attack upon some of his sepoys—and this is one of the grounds upon which the proof of bad police is founded—he says:—

Letter of Sir Eyre Coote.

"The merit or demerit of the sepoys is a matter which is not now in point. Admitting that they misbehaved, the conduct of the fouzdar merits the severest punishment."

It seems there had been a fray between the faujdar and some sepoys, and the way in which Sir Eyre Coote considers

it, when he makes a complaint against Cheyt Sing [is this]: he says:— 12 MAY 1794

"The merit or demerit of the sepoys is a matter which is not now in point. Admitting that they misbehaved, the conduct of the fouzedar merits the severest punishment, for it was not only disrespectful to your Government to disgrace and wound them, but unnecessary and irregular, as the fouzedar should have complained to Captain Eaton, who would have afforded him ample redress. But if individuals are permitted to resist our sepoys, every little dispute must be productive of bloodshed."*

This is the principle upon which a charge of bad police is founded against this unfortunate Raja. The sepoys are to be permitted to do any acts of violence they choose, and, if these persons are provoked to resistance, it is to be considered as a disrespect to the Government and they are to be punished for it! Upon such proofs as this your Lordships will not establish a charge of bad police against Cheyt Sing;—all taken afterwards, though none ever brought out till after he had been expelled from his dominions. I say you will not, upon such proofs and such principles as these, consent to establish against him a charge of a bad police which has nothing better to support it. But this was invariably the case; and after the expulsion of Cheyt Sing the matter was not mended. But, my Lords, it seems that, while Cheyt Sing was in possession of the zamindary of Benares, if any frays happened between the sepoys, in their passage through the country, or between those who are stationed in the country and the inhabitants, whether it arose from the violence and aggression of the sepoys—it was no matter—it was to be attributed to the fault of Cheyt Sing and a proof of the bad government of his country! After the expulsion of Cheyt Sing then, when the management of the country devolved upon us, and principally upon Mr. Markham, in the first instance, we should have imagined that all these complaints of harbouring refractory zamindars, of riots and frays between the zamindars and the sepoys, would have been provided against. But it seems impossible then to have avoided it; and, in page 1716 of the printed Minutes, you will find in Mr. Markham's testimony that even he admits that [frays with] the refractory zamindars had taken place there:—

Continuance of the disorders after the expulsion of Cheyt Sing.

"And there were"—says he—"so many complaints from different officers—from Mr. Bristowe, from Mr. Green, from Major Eaton and

* Printed in the "Minutes of the Evidence," p. 1599.

12 May 1794. others, upon different occasions, that it is impossible for me to carry in my mind any particular one, from the time that I was appointed assistant at Benares to the time I left it, in 1783."

So, my Lords, these complaints, which in the year 1780 were decisive against Cheyt Sing, it seems, still existed equally under the better government which, under the mild auspices of Mr. Hastings, afterwards was established.

We have further proof during the year in which Mr. Duncan was Resident at Benares; which your Lordships will find in that volume of the printed Evidence which we produced in reply, a great deal of which was read at the instance of the Counsel—certainly a much greater proportion than what we wished to read as our evidence. You will find constant complaints of misbehaviour of the sepoys, and of the tumults and riots they occasioned in Benares. You will find forty pages filled with nothing but complaints upon that subject; and, in the year 1784, you have, in pages 344 and 345 of the printed Evidence, Mr. Hastings' own letter upon complaints made to him at that time upon the very same subject, deciding against the sepoys—stating that they were the aggressors; that it was their fault, and not to be attributed to the natives of the territory of Benares.

Aggressive conduct of the sepoys.

Your Lordships will deal equal measure to this unfortunate man as to those who succeeded him. He was not responsible for these acts any more than those who succeeded him. They were owing to the violence and aggression of the sepoys; and your Lordships will not admit that that could so change its character, that, in the years 1780 and 1781, when Cheyt Sing held his territories, no aggression of theirs which provoked a fray should be attributed to them, but to the Raja; but that, after the expulsion of the Raja, their aggressions should be imputed to them, and that the supreme Government should stand acquitted. This is all that I shall state upon the charge of the bad police, which is said to be one of the grounds upon which the severity of Mr. Hastings against Cheyt Sing was justified.

The next is disaffection and premeditated rebellion. Before, however, I go to that, perhaps it will be better for me to recur to what I should have stated in a former part of this argument, namely, in that part of it which relates to the accusation brought against Cheyt Sing for the delay in

Distress of Col. Camac's detachment attributed to Cheyt Sing.

the payment of an additional subsidy—a charge brought against him for having delayed payment in a time of peculiar distress, and when the delay was attended with circum-

stances which had nearly effected the ruin of the detachment under Colonel Camac. I will state very shortly to your Lordships—referring you only to dates—a complete refutation of the whole charge. Cheyt Sing is charged with delay in the payment of an additional subsidy. A charge is brought against him for having delayed payment in a time of peculiar distress, and when the delay was attended with circumstances which had nearly effected the ruin of Colonel Camac's detachment. If you will refer to pages 1561 and 1562, and pages 1585, 1586 and 1587, of the printed Minutes, you will there find the complaints from Colonel Camac and Mr. Johnson, with regard to what he suffered in consequence of the delay in the receipt of the money he expected for the payment of his detachment, all stated. And you will observe, the earliest complaint sent from any of those persons on that account is dated the 27th of October, 1780, and they continued during the following months.

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Now I have only to refer you to the date of payments made by Cheyt Sing, in order to prove that what that unfortunate person himself said, when he was accused by Mr. Hastings of having nearly occasioned the ruin of this detachment by delay of payment, was strictly true; that the remittance did not depend upon him; that the money was paid; and, if there was any delay, it was not imputable to him, but to those who had the care of the remittance of the money. I stated that, on the 27th of October, the first complaint from any of those persons on that account is dated. Your Lordships will recollect that, on the 21st of June, Mr. Hastings received two lacs from Sadanund, which he proposed to apply to the payment of that detachment, but which the Council objected to. It is in the printed Minutes, page 342. At the time that he offers these two lacs for the payment of this detachment, he states it as a sum beyond what can be necessary for that service. On the 10th of August or before—I believe, on the 5th—Cheyt Sing had paid one lac. On the 24th of September he had paid another lac and a half—two lacs and a half of the additional subsidy, making with the two lacs received from Sadanund four lacs and a half—above double the amount of what Mr. Hastings had stated to be necessary for the service of Colonel Camac's detachment. And this payment was made above a month previous to any complaint of the distress of that detachment for want of the receipt of the money.

Cheyt Sing not responsible for the remittance of the subsidy.

The payment made before the arrival of Col. Camac's complaint.

12 MAY 1794. On the 18th of October, nine days before we hear any complaint, during which it is probable that they might have been able to send one—on the 18th of October the whole was completed; making with Sadanund's present seven lacs. In the ordinary course of intercourse, I believe that that might have been remitted from the 18th of October—even taking the last period in which the whole payment was completed—if there had been no interruption from the enemy, it might have been remitted to Colonel Camac in the province of Malway within ten days, which would have brought it to him on the 28th—only one day after he made the first complaint.

Difficulty in remitting the money to Col. Camac.

Now I wish to put it to your Lordships, whether any distress this detachment might have suffered could be imputed in any degree to the delay of Cheyt Sing? Because, at a period long before this distress arose, a sum more than sufficient, according to Mr. Hastings' statement, was paid, which might have been remitted to him: even after the whole was paid, there was time to have remitted it to him within a day after he made this complaint. Therefore, if there is any failure, he having paid the money, it is true the failure must be imputed to them that had the charge of the remittance. But is it fair to bring a charge against a man for a delay when he could not be aware of the consequences? And here I shall finish this part of the subject, by observing that Mr. Hastings did at no time acquaint Cheyt Sing that this money was intended for that service, or that the exigencies and necessities of that detachment were so pressing. Upon these grounds, therefore, I state that this is a charge which the whole conduct of Mr. Hastings warrants [us in believing to have been] maliciously brought against this person, in order to obtain a pretence for that conduct which cannot be justified upon principles of moderation or justice.

Ignorance of Cheyt Sing of the destination of the subsidy.

There was another charge also which I omitted from forgetfulness, which was with regard to the delay of payment of his tribute. Having passed by that when I ought to have spoken of it, I shall only refer your Lordships very shortly to the printed Evidence, where, in page 102, you will find that down to April, 1781, the whole tribute had been paid, and, as I contend that evidence will bear me out, with great regularity. So that, at the time this complaint was made, there was no arrear remaining. And, allowing Cheyt Sing to have been remiss under any previous circumstances, I cannot think that Mr. Hastings was justified, at the time he made this complaint, in acting upon it with a view to punish

His delay of payment of his tribute.

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the delays at a former period; they having never been taken notice of at the time they occurred, even with a view to annex that one quarter *per cent. per diem*, after the expiration of the fifty-one days, which is the grace allowed for payment of tribute at Calcutta. With that short view, I will leave you to judge how far Mr. Hastings is borne out in charging Cheyt Sing with delay in the payment of his stipulated tribute.

They have produced some evidence from Mr. Fowke that the bills used to be drawn at an early period; and their being drawn in the middle of the month he attributes to neglect of business in the Raja. But he says at the same time that, though they are drawn at a later period, yet still, in fact, they are drawn at a shorter date, and the payments made precisely at the period. This is the sort of evidence they produce to convict this person of delay in the payments of his stipulated tribute!—this, with another article of evidence, produced by them to show that Cheyt Sing disputed the right of the Nawab of Oude to insist upon payment of any tribute at all for a district called [Mungrore?]. With this account, I think, I have satisfied your Lordships that the charge of a delay of payment of the tribute is unjustly attributed.

Charge of rebellion against Cheyt Sing.

There remains nothing further but a charge of rebellion, as a justification of these acts of Mr. Hastings and of that severe punishment which he intended to inflict, namely, imposing a fine of 500,000*l.*, or expelling him from his zamindary. Here, again, I have to remark that, in none of the previous proceedings, had Mr. Hastings ever taken notice of this, any more than of any other charges. In his minute before he went up to Benares, in which he gives the ostensible reasons for his journey—in his letter to the court of Directors at the time that Cheyt Sing was neglecting the payment of this additional subsidy, as he states—at the time he was making complaints of him, charging him with contumacy and disobedience in neglect of that payment—so late as February, 1781, when Mr. Markham conversed with Mr. Hastings previous to his going up to Benares, at which time he says, it was his recommendation to Mr. Hastings to behave with lenity and forbearance to Cheyt Sing—down to this period, you never hear a word of this charge against him; and never would it have been made, if the unfortunate events had not happened which afterwards took place. That alone was a sufficient ground for acquitting him upon

Long silence of Mr. Hastings on this subject.

12 MAY 1794. such evidence as the Counsel have brought against him. And Mr. Hastings, in his Defence before the House of Commons—to which I refer your Lordships—expressly declares that he did not believe at the time, notwithstanding he had received all these accounts, to which the Counsel now give so much weight and authority—he expressly declares he did not believe that Cheyt Sing had entertained any such intention.

His disbelief of Cheyt Sing's hostility.

But, my Lords, if more were wanting, you have evidence in Mr. Hastings' own conduct. For he went up, it seems, to Benares with information that Cheyt Sing was disaffected to the Government—that he had formed schemes of establishing his own independency; which he tells your Lordships he had communicated to Mr. Wheler;—he went up to Benares, meaning to impose a fine of 500,000*l.* upon a person of this description or else to expel him from his territory. He went up to Benares without any troops to bring this disobedient Raja to submission—without anything to enforce this additional punishment which he meant to inflict;—a pretty good proof that he could have no suspicion that Cheyt Sing had really the designs imputed to him; or, if he had the designs, that he had the power of carrying them into execution. This, I contend, knocks all the proof completely on the head. We must, therefore, seek for some proof of this premeditated rebellion in some subsequent transactions; and then we come to the unfortunate and melancholy events which took place in this calamitous journey of the Governor General into the upper provinces.

He proceeds to Benares unsupported by troops.

I shall not now go into a detail of those events. They have been already detailed to you in speeches more powerful than any I can make; and, what is better than speeches, they stand uncontradicted upon your Lordships' Minutes, the facts not being disputed. The only argument arising between us and the Counsel is with regard to that which produced these events;—whether they are attributable to misconduct and criminality on the part of Mr. Hastings, or are the effects of premeditated rebellion on the part of the Raja. That is the state of the question, and on which I wish your Lordships to decide. I have stated what I think irrefragable proof that, previous to going to Benares, Mr. Hastings had no proof of any such conduct on the part of the Raja, or that any such designs really existed; and that he utterly disbelieved them. He went to Benares unaccompanied with any force whatever which could either protect him from any such designs, or

His interview with Cheyt Sing at Buxar.

support him in enforcing this enormous fine of 500,000*l.*, in case the Raja should resist, upon its being demanded. He met the Raja at Buxar; and there we are to look for the first proof of this premeditated rebellion. He came there, it seems, with 2,000 chosen men and 600 cavalry, whom he kept upon the left bank of the river, and concealed the infantry in boats: and [we are told] the attendance of this force was a proof of those designs. 12 MAY 1794.

It is a little singular, however, that, though we had it repeatedly asserted that he had this force with him, it has not been proved anywhere. Mr. Markham came to Buxar: he was present at the interview between Cheyt Sing and Mr. Hastings: but he admits he saw none of these proofs, and it appears to depend upon nothing else than hearsay. But, if Cheyt Sing did come with these troops which were assembled for the purpose of premeditated rebellion, he made at least a most extraordinary use of them; for, in possession of this force, Mr. Hastings being completely in his power and threatening him at that very time with an extraordinary fine, though he did not tell him the amount, what was the conduct of this man? He left these troops and came and put himself in the power of Mr. Hastings. He made that humble act of submission to him which Mr. Hastings described in his Narrative;—he placed his turban upon Mr. Hastings' knee, signifying that he abandoned his life, his property and everything he had, to the will of Mr. Hastings. This is the conduct of this man, meditating rebellion, with force to carry it into effect, when Mr. Hastings was in his power, without any force that could resist such an attempt if he had made it! Submission of Cheyt Sing.

What are we to look for after the arrival of Mr. Hastings at Benares? We shall find then, I suppose, something that will amount to positive proof that Cheyt Sing did entertain such designs, which then broke out into some overt act which is a complete proof of it. What did Cheyt Sing do upon Mr. Hastings' arrival at Benares, when he proceeded to put into execution this enormous and horrible injustice, as I contend, of imposing upon him a fine of 500,000*l.* for delinquencies of which he had not been guilty? What then was the conduct of Mr. Hastings, and what the conduct of Cheyt Sing? Mr. Hastings, without any force, unaccompanied, unattended, sends a person to put Cheyt Sing under arrest. Cheyt Sing, with 2,000 chosen and picked troops, probably with more, near Benares, if we are to believe all that has He is arrested without resistance.

12 MAY 1794. been told us by the evidence produced by the Counsel, but however, with at least 2,000 picked troops, submits quietly to this arrest and writes the most submissive letters upon it, which are disgusting from their meanness, and which I will not repeat, to mortify this Court with the thought that human nature could be so degraded and brought to the abject situation which Cheyt Sing was, under the most merciless act of tyranny ever committed.

Here then we have complete proof from the conduct of the parties—in the first place, that Mr. Hastings had no such apprehension; in the next place, that Cheyt Sing had no such designs. For is it to be conceived that, in the midst of his capital, surrounded by his own people, in possession of such an armed force as is described, he should have submitted to such an act of indignity as I contend was put upon him in subjecting him to an arrest? However, upon this arrest an unfortunate event took place. The people were raised; the guard that was sent to watch over the Raja were massacred; and Cheyt Sing made his escape. And it is upon this last event that the Counsel rest principally as the proof of an overt act of that rebellion, of which I have shown your Lordships what sort of evidence they have given of the previous design. I refer to all the circumstances of that transaction; and I leave you to determine whether it appears to be anything more than a sudden act of fury of the people, committed by them in consequence of such an insult and indignity being offered to their prince?

Massacre of the guard, and flight of Cheyt Sing.

My Lords, we have produced proof which I think is satisfactory upon that subject. I desire any man to examine the circumstances of that transaction, as they appear upon the evidence, and to put his hand upon his heart and say whether he can conscientiously believe otherwise than that it was a sudden affray, occasioned by the provocation which arose upon the arrest of Cheyt Sing. But, if proof were wanting, I should wish for nothing better than the proof which has been produced by the learned Counsel themselves, in order to show that these horrible events—the massacre of the English officers and sepoys, and the flight of Cheyt Sing—were the consequences of a premeditated design, and did not arise from a sudden affray.

The affray sudden and unpremeditated.

And, in the first place, without remarking on the nature of the testimony that is given upon it, which is only loose affidavits annexed to the Narrative, collected after the time from persons who were, perhaps, [not] very squeamish about

swearing, I should wish to hear what the principal evidence upon that subject says: and he says,— 12 MAY 1794.

"Cheit Sing's people became turbulent, exclaiming on all sides that the English had made the Rajah a prisoner, and calling out to attack them."

This is the proof that it was occasioned by premeditated rebellion,—that Cheyt Sing's people became turbulent, exclaiming on all sides that the English had made the Raja a prisoner, and calling out to attack them! The consequence was, that, upon some indignity offered to the Raja under this arrest, they did attack them; and the consequences which have been described to your Lordships, and which appear in the Evidence, and which I will not take up your Lordships' time by any further description of, did follow.

Cheyt Sing driven into rebellion.

Why then, what happened after this? Cheyt Sing was driven out an exile from Benares, and a rebellion ensued—which is only called a rebellion because it was unsuccessful—the event of which was his final expulsion from his territories. But after this, when all measures had been destroyed between them, he repeated his offers to submit to anything the Governor General should please, to be recalled into his territories—even at this time, when in possession of this force, when, if he had proceeded to the quarters of Mr. Hastings, where he was unarmed and unattended, he might for ever have relieved himself from his oppression. Even when all measures were broken between them, and Mr. Hastings considered him as reduced to the primitive state of nature, as he says in his Narrative, he even then repeated those offers of submission which he had made when accompanied by so considerable a force at Buxar. But, says the Counsel, these offers of submission were insincere, because he was endeavouring at the time to fortify himself by calling in additional forces, and calling in his zamindars, and putting himself in a state of defence against the further designs of Mr. Hastings. No doubt he was! He offered submission and, I have no doubt, with sincerity; but, until he knew whether that would be accepted or not, was he to blame in acting upon that principle of resistance which your Lordships will sanction, whenever it is called forth by an unjust and unmerited oppression?

He repeats his offers of submission.

Alleged insincerity of his offers.

Indignity of the arrest.

Here then I shall leave all these parts of the defence which rest upon the accusation of Cheyt Sing for those acts of supposed delinquency, only, my Lords, to observe very shortly upon the arrest, which, it is contended by the learned Counsel, was a thing perfectly usual in that country, and was

12 MAY 1794. no act that could be considered as a disgrace and indignity. I leave it to your Lordships' own feelings to judge whether such an arrest must not have been considered as a very great degradation of a person in the situation of Cheyt Sing. We have given proof that it was, in page 281, in a letter from Suja-ud-Dowla to Mr. Hastings, which states that,—

Feeling of Hindus on the subject of arrest.

"It is the custom of the army that, if any one commits a fault, he will be imprisoned for it and think nothing of being put under a guard; but there are other Hindostanies and the Najab battalions and others in my service who consider it as the highest disgrace to be put under a guard, and if any one attempts it they will defend themselves against it, and rather lose their lives than submit to such a dishonour."

Common soldiers would rather lose their lives than submit to such a dishonour: and yet, in the case of an independent prince, as I contend he was, subject to the payment of a stipulated tribute and to certain other duties, but not to the demand contended for, it is to be considered as no indignity, no degradation! We have further given in evidence the examination of Mr. Benn and Colonel Gardiner, both of whom state unequivocally and expressly that it must be considered as a very great degradation. In answer to this, Mr. Hastings' Counsel prove that such a thing had been done in the case of the Raja of Burdwan; of whose case and of the necessity I know nothing.

Case of Mahudy Ali Khan.

But the last and most important evidence that we have upon that subject is to be found in page 2596 of the printed Evidence, which was brought by us in reply. And there you have an instance of a man, of the name of Mahudy Ali Khan who was put under arrest by the Raja of Benares—a dependant of the Raja, standing in an inferior situation to him, arrested upon the same alleged offence, namely, of a deficiency in the payment of his tribute—and that this man considered it as an indignity: he considered it such an indignity that he took poison to avoid it.

"How could I act," he says, "in opposition to all this? All I wanted was for the Rajah to rent the country at what it had been fixed at for the last five hundred years and take his own kists in consequence. I wrote an arzee and intended my dewan vakeel should present it to the Maha Rajah, but his people who came to enforce the demand would not permit him. I desired in the evening to be allowed to pray and was not allowed: and when I found my honour and religion attacked, having no remedy I took poison. And the chuprossey also added such further discourse as is improper to be repeated."

There can hardly be stated a case more similar to that in which the arrest was executed on Cheyt Sing than this; and in this the man considered it as such a disgrace and

dishonour that he took poison to exempt himself from it. He recovered from it; and, in course of this transaction, you have a curious specimen of Indian ethics in Ali Ibraham Khan, who is represented in the highest terms of panegyric. He, writing to this man, enlarges upon the enormous crime of attempting to destroy himself: he says:—"To destroy yourself by eating anything is according to the Mahomedan law and the English custom exceedingly improper—particularly in a renter?" It was particularly improper in a renter to endeavour to destroy himself by poison, and to endeavour to exempt himself from such an indignity as was attempted to be put upon him! 12 May 1794.

Recapitulation.

I have now brought the observations I have to make in answer to the defence of the prisoner down to that period when, having made the last demand for cavalry in the year 1780, Mr. Hastings, in the year 1781, proceeded, upon allegations of supposed delinquencies against the Raja, to impose upon him a further fine of 500,000*l.* sterling, which ended in a war in that province, and in the subsequent expulsion of Cheyt Sing. Now upon all these acts I state that Mr. Hastings was undoubtedly criminal. The view that I have of the subject is this:—that Mr. Hastings acted, in the first instance, in making these demands, contrary to right. And here I should wish to be allowed to add a piece of evidence to that with which I before troubled your Lordships upon that subject. I gave you a variety of evidence, upon which, I think, arguments were founded—and, if they do not appear completely satisfactory, it was from my want of ability to do justice to them—showing that, in the situation of Bulwant Sing and his successor Cheyt Sing, no such demand could be made with justice. I shall now refer your Lordships, simply as a confirmation of all I said upon that subject, which I overlooked at the time and omitted, to pages 1022 and 1023 of the printed Evidence. Mr. Hastings there justifies himself against the charge brought by Nundcomar, in a letter in page 1000, of having neglected the interest of the Company, in remitting to Bulwant Sing the tribute that was due for a particular district which belonged to him for the pargana of Mungrore. In answer to this, Mr. Hastings says:—

Charge of neglecting the interests of the Company brought against Mr. Hastings by Nundcomar.

"I recollect an information given me by Nundcomar concerning the pretended usurpations made by the Rajah of Benares of the pergunnas of Keera, Mungrora and Bidjegur, in the province of Behar, but at a much more distant period of time than Nundcomar has asserted. I

12 May 1794. do not recollect his mentioning it again when I set out for Benares; neither did I ever intimate the subject either to Cheit Sing or his ministers, because I knew I could not support the claim; and to have made it and dropped it would have been in every sense dishonourable. Not that I passed by it with indifference or inattention; I took pains to investigate the foundation of this title, and recommended it to the particular inquiry of Mr. Vansittart who was the Chief of Patna at the time in which I received the first intimation of it. The following letter and voucher which I received from him contain a complete state of this pretended usurpation."

And then he refers, for a proof of Bulwant Sing's right, to a sanad granted him by the Nawab Mohammed Jaffier Khan, in the fifth year of the reign of his Majesty Shah Alem, to which I shall beg your Lordships' very particular attention; and here he says, in the sanad:—

"In consideration of the attachment and services of the high and mighty Rajah Bulwant Sing Bahadre, the revenue of 16. 80. 83 daums in the pergunna of Mungrora, with the fouzdarry and other duties usually paid to Government, are remitted to him and given for his own emolument, that he may be always ready to protect that quarter."

Admissions involved in Mr. Hastings' reply.

Now I wish to call your Lordships' attention very shortly only to two observations upon this document. In the first place, you have the description of the Raja Bulwant Sing—that degraded zamindar as Mr. Hastings represents him—who is styled in this sanad "the high and mighty Bulwant Sing Bahadre." When he was to be called upon to protect his own capital against an apprehended invasion, what was the conduct then of the superior Government; did they ask from him an additional contribution? No; they remitted to him a part of the revenue already due, in order that he might have additional means of providing for his own defence. I wish your Lordships to consider this sanad, and then apply it to the principles set up by Mr. Hastings, and to take that into the weight of consideration which I have already stated as material to your Lordships' decision upon this question.

Upon a review of the whole of these transactions my view of the subject is—that this demand was made originally without right; that it was enforced with circumstances of unnecessary severity; that it was increased beyond all possible proportion; and that it is impossible to acquit Mr. Hastings of having acted in a way disgraceful to the British nation, contrary to engagements subsisting between the Company and the Raja, contrary to good faith, to policy and to justice.

But there is a view of this transaction of which it is material for me to take notice very shortly. Much stress has been laid by the Counsel on the other side upon a supposition of a difference of opinion—to which I do not think it very regular to allude—which they state to have existed between some of those persons who concurred in bringing this charge against Mr. Hastings, respecting the assertion of right on the part of Cheyt Sing and the denial of it on the part of the superior Government. I confess myself to be in the latter predicament: I say the charge is perfectly consistent. But, if your Lordships should be of opinion with those who are asserting the right in the superior Government to make demands of this nature in cases of public exigency—asserting the duty of the vassal to yield due obedience to such demands—considering Cheyt Sing in a certain degree as criminal for his resistance to them, yet thinking that the punishment was utterly disproportioned to the offence, and therefore, on account of the excess of punishment concurring in this vote of impeachment; they argue that, should your Lordships concur with them in opinion, to that the Article does not go—on account of some defect in the framing of it, I suppose, which I confess myself not to understand;—that, even if you should be of opinion that the punishment was excessive as compared with the alleged delinquency, yet that upon the construction of this Article your Lordships could not find the prisoner guilty upon that ground. I say, I do not understand this. I have before disclaimed on the part of the Commons—and I thought I had had the assent and acquiescence of your Lordships—any obligation to be tied down to the rules of special pleading. I am not surprised that the Counsel on the other side should endeavour to establish a contrary principle. I am not surprised that those who have no confidence in the justice of their cause should endeavour to escape by a flaw in the indictment. But this will not serve them here.

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Difference of opinion as to the right of Government to make the demand.

Alleged defect in the framing of the Article.

What is the charge? It is a charge of tyranny and oppression exercised against an individual. And shall a tribunal sitting for the administration of the laws, whose boast it is to protect even the guilty from an excessive punishment—shall you be told that, under a charge of tyranny and oppression like this exercised against an individual, if the punishment should be found to be utterly disproportioned to the offence, if the offence be found inconsiderable and the punishment

Frivolity of the objection.

12 May 1794. enormous, and that the other circumstances of the case should warrant you in a belief that it could be dictated only with a view to harass, oppress, and finally to ruin this man, will your Lordships admit that upon this ground you will not find the prisoner guilty? And, if you think yourselves bound upon these grounds to inflict a certain degree of punishment upon him, you will not admit such a principle. If you find the delinquencies heaped upon this man by the prisoner were, in general, unfounded in fact and unsupported by evidence, if you find that any that are stated are comparatively small and the punishment excessive, your Lordships, sitting here as protectors of innocence against oppression and as the protectors of guilty persons against excessive punishment, when you find the prisoner guilty of an abuse of that power entrusted with him for the administration of justice, will compare the punishment with the offence.

Disproportion of the penalty to the offence of Cheyt Sing.

I have examined the offences alleged: I think I have shown, even in the opinion of Mr. Hastings himself, that they were without foundation or proof. Then what was the situation of Cheyt Sing? What was the only act of remaining delinquency which could be urged against him, at the time that Mr. Hastings declares his intention to have exacted from him a further sum of 500,000*l.*? That he had been dilatory in the payment of the last demand of the subsidy in 1780, and that he had not yet complied with the additional demand for 2,000 cavalry in 1781. Compare that with the punishment intended to be inflicted upon him by Mr. Hastings, of imposing upon him a fine of 500,000*l.*, or of expelling and driving him from his zamindary!

My Lords, I am sure you will think that the punishment is utterly disproportioned to the offence. But I have only to cite Mr. Hastings' authority; for, if I have succeeded, as I trust I have, in showing that the other alleged grounds of delinquency are utterly untrue and incredible, you have Mr. Hastings' own acknowledgment that the fine was excessive. For, if the delay deserved such a punishment, why endeavour to swell the catalogue of his guilt by all those other alleged crimes, when this alone would warrant a fine of 500,000*l.*? But compare it with what Mr. Hastings' proceedings were at the end of the year 1780, at the time the Raja was resisting and disputing the right to enforce the last demand; what does Mr. Hastings do? He proposed to impose upon him a fine of only one lac, when he

had not discharged his last subsidy in 1780. Mr. Hastings, who knew that the fixed and settled penalty for not performing punctually his engagements for the payment of tribute was only one quarter *per cent. per diem*, at once endeavours to impose upon him a fine of 500,000*l.* as a fit punishment for a delinquency of the nature of that I have stated. I say the punishment is utterly disproportioned to the offence; and therefore, even if your Lordships should be of opinion with that person to whom the Counsel have more particularly alluded—whose influence undoubtedly is great, and I do not wonder they wish to avail themselves of it—whose great and transcendent talents I am not so far blinded by any political difference as not to pay the sincerest homage to—if your Lordships should be of that opinion, which is not mine, I say that, from the extreme disproportion between the punishment and the offence, your Lordships cannot acquit the prisoner. But then, admitting this fine to be utterly disproportioned to the offence, it was never executed; and will your Lordships, acquitting Mr. Hastings of criminalty in these acts which he is proved to have committed, find him guilty of a charge upon the ground of an intention only which was never carried into effect? Yes! You will, if you find that he did endeavour to execute the intention, and that he was only prevented from executing it by the greater evils which his violence in endeavouring to execute it produced.

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Argument from the non-infliction of the penalty.

An individual — I certainly speak in the presence of those who will correct me if I am wrong: I certainly speak without learning upon the subject—but I believe, according to the principles of law and the decisions of ruled cases, that an individual, in the commission of an illegal act, is responsible for the consequences which may result from his attempt to carry that act into execution, though he has not been able completely to effect it to its full extent. I believe it has been ruled that, in the case of persons going together to steal deer, where the consequence was a resistance on the part of the gamekeepers, some of whom were killed, even those who were not present, having been engaged in the commission of this illegal act, were held to be responsible for the consequences which had resulted from the attempt to commit it, and were held responsible for the murder which ensued. I say, in the same manner, that an individual acting under a great trust in Government, if in discharge of that trust he attempts to commit a great and

Liability for the consequences of attempting to commit an illegal act.

12 May 1794. enormous injustice and proceeds to carry that intention into effect by an overt act, is responsible for all the consequences that result from that act, though the act itself may not have been completed and accomplished.

Mr. Hastings responsible for the rebellion at Benares.

Therefore, I say, if Mr. Hastings, in attempting to impose a fine of 500,000*l.* which he was not warranted in justice in doing—whether you consider it as altogether unjust, the Raja having committed no offence at all; or as unjust considering the extreme disproportion between the punishment and the offence—if in proceeding to carry that into effect he arrested the Raja, and the consequence of that was the provocation of the people and his subsequent rebellion which ensued, that Mr. Hastings is responsible for those acts; and that, though the intention was never executed, yet the attempt to execute it will be considered by your Lordships as highly criminal. I say, therefore, upon this ground, which certainly is not the ground upon which I particularly wish to state it, but it is my duty as contending here on the part of the Commons in support of this prosecution to state all the grounds upon which this case can be argued, I say that, even upon this narrow and confined ground, which, I own, will make the guilt of Mr. Hastings less, that you cannot absolve him from guilt altogether for the utter disproportion of the punishment to the offence. And, even if he had been justified in calling for this demand when there was no necessity existing for enforcing it, yet he cannot be justified in selecting this individual when no other was called upon to contribute in proportion; and I am persuaded that, upon all these grounds, your Lordships, from the first to the last of these transactions, will find the prisoner guilty of a high crime and misdemeanour.

Charge against Mr. Hastings of malicious motive.

I shall trouble your Lordships very shortly further upon another point, which has been much argued and disputed by the learned Counsel; and this is upon the allegation of malice against the prisoner. They proceed to argue, supposing all this to be as we have stated, that the law does allow great latitude and indulgence to magistrates in the execution of a difficult and important trust, particularly where they are acting in a situation of great emergency aud danger; and that, allowing this latitude, you will not be satisfied by any light proof of a bad intention; and unless the malice can be proved you will not infer it, and will not inflict punishment upon that account. And they say, this malice can only be inferred in two ways; first, from a

general view of the whole circumstances, from which an opinion must necessarily result that the person accused acted, not only contrary to his duty, but that he acted willingly and wilfully in direct contradiction to his duty; and that this must appear, in the first place, from a view of all the circumstances together, which must be such as to preclude any possibility of any other motive to be assigned, unless the prisoner can himself prove such to have existed.

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It is upon this ground, undoubtedly, that I shall principally argue the justice of imputing malice to the prisoner at the bar, under the Charge now before you. And it is not upon any one transaction taken singly, which was the way in which the Counsel argued it, but upon the whole taken together that you must examine and decide upon Mr. Hastings' conduct; and I say that, if you see him, in the year 1778, upon the first pretence that offered, upon grounds which did not exist in truth, making a demand directly contrary to engagements subsisting between him and the Raja—if you find him afterwards increasing that demand—if you find him in the last year increasing it beyond all proportion, and at last, upon allegations of pretended delinquency proceeding to impose upon him a fine that must necessarily ruin him, then see him hunting and pursuing this man singly while he neglected all others—it is impossible, unless the prisoner can set up something to disprove a criminal motive, that your Lordships can infer any intention but to ruin and drive him to despair. But, if your Lordships require further proof, I think there does appear a particular motive of malice on the part of the prisoner against Cheyt Sing, from his own declarations in different places; and I shall refer you, in the first place, to his Narrative. He says, speaking of Cheyt Sing;—

Grounded upon his uniform conduct towards Cheyt Sing.

Offence offered by Cheyt Sing to Mr. Hastings.

"This design had been greatly favoured by the unhappy divisions of our Government, in which he presumed to take an open part. It is a fact that, when these men had proceeded upon an extremity bordering on civil violence by the attempt to wrest from me my authority in the month of June, 1777, he had deputed a man named Samboonaut with an express commission to my opponent, and the man had proceeded as far as Moorshedabad, when hearing of the change of affairs which had taken place at the presidency he stopped, and the Rajah recalled him. It may perhaps be urged, in favour of the Rajah Cheit Sing, that he was justifiable by the principle of good policy in seeking a state of independency; that we had no natural right to his vassalage, having acquired it with all our other rights of dominion by no other charter than the successful spirit of enterprize."

What I refer to is the first sentence—the way in which

12 May 1794. he speaks of his having deputed, as he says, in 1777, a person with an express commission to his opponent. My Lords, I do think that there does appear, in the first place, from this passage in the Narrative, some reason to believe that Mr. Hastings had from that moment conceived a great resentment to Cheyt Sing, which afterwards might operate in all those acts which I have been detailing to your Lordships. But it does not merely rest upon that; but in the Defence before the House of Commons, of which, as I have already stated to your Lordships, the prisoner can never get rid, there is almost a direct avowal of it; for he says:—

Avowal of a feeling of resentment on the part of Mr. Hastings.

"I mean to prove fully in its proper place that I never gave permission to any agent to resign for me the office of Governor General. I can here only assert it. But when General Clavering attempted to assume the chair which I had not vacated, I was warranted in supporting my authority by every means in my power: I was warranted in styling him my opponent, and warranted in treating every misplaced mark of homage to him as a personal disrespect to myself. When therefore I affirmed that Cheit Sing had deputed an agent [with an express commission to compliment General Clavering on his accession to the Government, I affirmed a fact certainly criminal and offensive to the Company's Government, inasmuch as it was an officious and premature interference on the part of the Rajah, pregnant in itself with very great disadvantages to the due and orderly administration of affairs, and deeply injurious, by the example it held out to others for taking part in the dissensions which at time harassed our councils. In Cheit Sing's case it was particularly obnoxious, because all correspondence with him (as with all other native powers) was, by the Company's orders, conducted through the medium of the Governor General; the Rajah therefore had no right or pretext for paying such a compliment to General Clavering, until his accession to the chair had been notified in form. Nor can it be urged, in the present instance, that such notification was duly made; for, granting (as I believe I may) that General Clavering had issued, in his assumed character of Governor General, information to that purport, Cheit Sing had a vakeel in Calcutta, whose express business it was to set his master right; and for that purpose he might have had, and had at all times, free access to my house and apartment, and I also caused immediate official despatches to be sent off to the different country powers to assure them of my continuance in administration. I urged this act of the Rajah at the time it took place, and I now urge it, as a proof of the readiness which he showed to foment, or even to take part in any divisions of our Government. It always appeared to me indecent with respect to my office, unjustifiable with respect to his situation, and a proof of his rooted disaffection to the English administration. Whether or not I permanently forgave him, is of no consequence. I never sought to punish him but] on public grounds."

I say then, my Lords, that we have here in Mr. Hastings' own declaration—for this is his declaration, as well as that which has the sanction of an oath in his Narrative—that we have in his own declaration what amounts almost to an

avowal of a secret motive of malice in Mr. Hastings, to be derived, as I say, from that transaction when Cheyt Sing had deputed a person, as the country powers are naturally inclined to do, in order to conciliate the favour of a future Governor—to congratulate General Clavering upon his supposed accession to the seat of Government. But it is not upon that ground I rest so much as upon a view of the whole transactions, the unvaried persecutions of this man, selecting him out and hunting him constantly, till at last he crowned the whole of his aggressions against him by that extraordinary demand of 500,000*l.*, and the expulsion of him from his dominions. It is upon a view of the whole transaction together that I found this part of the accusation against him. 12 MAY 1794.

It will be for your Lordships to consider, upon a view of the whole of the circumstances, how far Mr. Hastings is criminal upon any of the grounds that I have stated to your Lordships. Much I have omitted in what I have already stated; much I am obliged to omit from inability to proceed further, and from unwillingness to trespass further upon your Lordships' time. There are material and important parts of this charge remaining;—I mean, those parts which relate to the plunder of Bidjey Gur, and to subsequent settlements and changes made in the administration of the province of Benares. These, though important in themselves, do not constitute the most important parts of this Article. They only appear inconsiderable when compared with the other gigantic crimes of Mr. Hastings; but however they are of infinite importance in themselves, and it is with unwillingness that I leave them for your Lordships' decision without any further comment upon them. Indeed I should not do so, except that the Counsel themselves seemed to have considered them as the most immaterial parts of the Charge, and have argued little upon them, and have produced very little evidence. Such as it is compared with ours, I am willing to leave it, upon comparison of both, to your Lordships' decision. To other general arguments and defences I shall not for the present give any answer: I mean to those general arguments and defences which consist in the alleged acquiescence of Parliament and the court of Directors, and in the general approbation and good character given by the natives of India to Mr. Hastings. These certainly will come more properly within the view of those who, after me, will take a more general and comprehensive view of the subject.

Subordinate portions of the Article.

Alleged acquiescence of Parliament, &c.

12 MAY 1794.

Disastrous effects of the disorders in Benares.

With regard to the effects produced upon the province of Benares itself, I only wish to refer your Lordships, in answer to the evidence which has been produced of the situation of that province in later years by the Counsel on the other side, to what we have produced as a proof of the immediate effect of those transactions at the period in which they were concluded. For Mr. Hastings, in his own letter in 1784, describes, that, in his progress through that territory, he saw nothing but signs of complete devastation, from one end to the other; and Mr. Duncan in his report states, that it was in a state of universal uncultivation and waste almost, and that it would only be brought back to its former state by recurring to the settlements made previous to the expulsion of Cheyt Sing. In this way I shall leave the Charge.

I have endeavoured to state what I think to be most material to your Lordships' consideration, with many thanks for the indulgence with which you have heard me through this tedious discussion. There are those behind me who will have an opportunity of entering into a view of the whole of this subject altogether.*

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* On the conclusion of Mr. Grey's speech, Mr. Burke rose, and after a few observations, complaining of an attempted interruption by the Counsel, read a paper containing a statement of the demands on Cheyt Sing in each successive year, and the proportion they bore to his income.

SPEECH OF RICHARD BRINSLEY SHERIDAN, ESQ., MANAGER FOR THE HOUSE OF COMMONS, IN REPLY ON THE SECOND ARTICLE OF THE CHARGE, RELATING TO THE BEGUMS OF OUDE; 14 MAY, 1794.

MY LORDS,—In behalf of the Commons, I appear before your Lordships to reply to the Counsel on the second Article of the Charge of impeachment preferred against Warren Hastings, Esquire. 14 MAY 1794.

My Lords, there are many circumstances which induce the Managers, as far as the great duty with which they are entrusted will permit, to wish to trespass upon your Lordships' time as shortly as possible, at the close of a trial already protracted to so great a length, from circumstances which it is neither my duty nor intention in this place to state or to discuss.

My Lords, I trust that I shall be able to compress what I have to lay before your Lordships into a very short compass. I have read attentively every word of the speeches of the learned Counsel; I have compared them with every part of their evidence; and I must first fairly say, my Lords, that what has puzzled and embarrassed me is, to discover any one point which they have so pressed as to make it necessary, without disrespect to your Lordships' sagacity and discernment, to attempt to reply to or to refute it. My Lords, when I say that I hope to compress what I have to lay before you into a short compass, if I succeed in doing so, I certainly shall claim no merit from it. The merit of it, my Lords, if any, belongs to the perspicuity, to the force, and to the weight of that evidence which, upon a former occasion, the Managers had the honour of submitting to your Lordships, and not one particle of which, I am bold to say, it has been in the power of the learned Counsel to overturn, nor any material part of it even within their courage to attempt to assail.

Complaints on the part of Counsel of delay in the proceedings.

My Lords, the learned Counsel have on many occasions complained of the great delay of this trial: yet, my Lords, I really must take the freedom of saying that they seem to me to have considered that they should derive considerable

14 May 1794. advantage from delay; and they appear to me to have imagined, through the whole course of their speeches, that your Lordships must have forgotten every one of the arguments to which they were answering. And also, my Lords, I think—which is perhaps more extraordinary—that they seem entirely to have forgotten that the Managers have a right to reply to their answers.

My Lords, when I profess that it is my intention to be brief upon this subject, I am well aware that professions upon that subject in this trial are not likely, perhaps, to meet with any immediate credit from your Lordships. The learned Counsel themselves were not sparing in their remarks upon the prolixity with which they supposed the Managers conducted the business. When it came to their turn to speak, we certainly did conceive that they would have contrasted their conduct with ours. A learned Counsel, whose arguments I shall more particularly notice, introduced his speech with this observation:—he complained that the Article comprehended a great extent and variety of matter; "but," he says, "my Lords, I think, in examining it, the subject may be analysed and simplified, and reduced into that which is the plain subject of the principal part of the Charge, and it will be found to lie in a very narrow compass." With this observation, my Lords, the learned Counsel introduced a speech of four days!

Prolixity of Counsel.

My Lords, if this is the idea of brevity in the learned Counsel, I confess I must congratulate your Lordships that he was not disposed to be diffuse; for my imagination does not enable me to conceive what his prolixity would have been. But you certainly had the advantage of this determination of the Counsel, as it were, in a spirit of rebuke to his learned colleague, who had spoken only two days. This learned Counsel, possessing the power of analysing and simplyfying, which I am to take for granted his learned brother did not possess—the learned Counsel, as it were, rebuking his learned brother for having spoken eight hours, did contrive to compress and squeeze the spirit and substance of his speech into the nutshell of a sixteen hours' oration.

My Lords, I say, after this example, it is not to be expected that a very ready credit will be given to professions of brevity upon this trial. And, my Lords, I am ready to confess, were I to follow the learned Counsel through speeches of infinite ability and ingenuity, through all the extraneous matter with which they have loaded their argu-

ments, through all the laborious statements which they have employed upon self-evident propositions, through all their unnecessary amplifications, through all the mutual repetitions of each others arguments and statements—I say, my Lords, if I was to attempt that, certainly there would be very little prospect of my fulfilling my promise. But such of your Lordships as have attended to and taken notes of the speeches of the learned Counsel—of which I assure you that I will strictly confine myself to such parts as are to the purpose—will not, I hope, despair that I shall be able to keep my word. 14 MAY 1794.

My Lords, in order to be brief, it is certainly necessary to avoid all attempts at superfluous ornament or decoration. Perhaps, in the commencement of this business, in order to win a little attention to something of a dry subject, the Managers did indulge themselves in something that might be called collateral matter, and also, perhaps, in some expressions of warm and fresh indignation, which they could not at the time but feel on account of the crimes which they arraigned. But, my Lords, I am ready to admit that now, approaching to the solemn hour of decision, those practices, perhaps, ought to be avoided. But when I admit this, my Lords, I here again cannot plead the example of the learned Counsel. They were extremely free in rebuking us for our proceeding on this sort of subject. A learned Counsel, who himself found great fault with the poetical flights—he particularly did me the honour to point at me, with some handsome compliments about imagination, poetry and eloquence, which I beg leave rather to decline, for I should have thought it a better compliment if he had admitted the authority with which I stated the facts in evidence—but the learned Counsel, having given this rebuke to the Managers, says:—"To a taste thus pampered, and, I had almost said, corrupted [with these luxurious delicacies we have nothing left to offer but the plain and simple food,] I had almost said the dry husk, of fact and argument."* Figurative style adopted by Counsel.

So that, my Lords, though the learned Counsel did reprobate such figurative way of proceeding, they certainly took care to show that it was not for want of means or talents to deal in something like the same sort of commodity. And I believe, if your Lordships will observe from your notes, through the whole of these speeches, you will for

* See Mr. Law's speech in opening the defence, vol. ii. p. 525.

14 May 1794. ever find them venting the most fanciful spleen against our indulgence in flights of imagination, and dealing in most figurative lamentation at our addiction to metaphor and ornament.

My Lords, I must mention one more circumstance upon the subject of brevity; because your Lordships may naturally imagine that, if I do contrive to bring the matter into the compass which I hope to do, knowing the length and extent of the speeches to which I am replying, I am afraid your Lordships will imagine that I must necessarily have passed over a great mass of weighty and material fact or argument. In order to do away as early as possible that impression, I cannot but refer to a part of the speech of the learned gentleman who led in the business.

Introduction of the story of Saadat Ali.

My Lords, in the Article, it so happened that the father of the elder Begum was mentioned by the name of Saadat; and when it was mentioned that her father's name was Saadat that was the whole that was said upon that subject. In summing up upon that Charge, my Lords, I did not say one single word with respect to her ancestry or with respect to this Saadat. However, the learned Counsel, who had not, it seems, that talent of shortening, simplifying and analysing, finding the name Saadat mentioned, thought it an excellent opportunity to amuse us with a very pleasant story respecting this Saadat. Accordingly, I hold in my hand a note, at considerable length, of an extremely interesting and amusing Mogul tale, told in very pleasant though familiar language by this learned Counsel, the amount of which is that this Saadat was a man of extremely bad morals; that he was a minister of Mohammed Shah and a rival of Nizam-ul-Mulk, and a rival also of a more worthy man, one Condewar; that, about this time, Nadir Shah, vulgarly known by the name of Kuly Khan, invaded India, and that he carried on a treasonable correspondence with Nadir Shah; that at length Nadir Shah takes Delhi, and he then sends for these two traitors and rates them soundly on account of their treachery: he ends with sending them from his presence and spitting upon their beards. They meet in the other room, and, to use the very words of the learned Counsel, "lay their heads together" upon this subject, and agree that it is utterly impossible for them to survive this disgrace. Upon which, they came to a resolution that they would both poison themselves. But, these being very immoral statesmen, they each suspected that the other would play him a trick. Accordingly,

Saadat sends a spy to watch Nizam, to see whether he really poisons himself or not. But he, suspecting that he was suspected, took what he pretended to be poison, and feigning the agonies of death fell down. The spy was deceived, and he returns to Saadat with horror in his countenance; and tells him that his friend had certainly poisoned himself. Upon which, says the learned Counsel, Saadat, in a perverse fit of honour, which then seized him for the first and last time of his life, really did poison himself; and thus he fell a victim, he says, to his own knavery. When he has finished the story, he says—"I will now return to the Article."* 14 May 1794.

Its irrelevancy.

Now, my Lords, that this is a very excellent story, and that, with the ingenuity of the learned Counsel, if they have time in the vacation and would introduce a little love into it, they might make an excellent tragedy of it or a pretty volume for a circulating library, I will not deny; but if your Lordships were to ask me—what on earth it has to do with the question—why it was introduced—or what colour of provocation there was—I confess I am utterly unable to answer. But I hope that to this part of the learned gentleman's speech, or to anything similar, it will not be expected that I should reply. If it was, I certainly should have put a volume of Mogul tales into my pocket before I came down; and, if this proceeding was to meet the grave countenance of your Lordships, unquestionably we should make this a place of very pretty Arabian mornings' entertainment; we should enliven the dry subject and make it much more amusing to many ladies that do us the honour to attend, but I do not think we should much edify your Lordships or advance much the real purposes of this trial.

Now my object in stating this a little more at length than, perhaps, might appear necessary at first to your Lordships is this:—that if I do, as I said before, compress what I have to say into a narrow compass, I beg your Lordships will not imagine that I must of necessity have passed over great, weighty and material, parts of the learned gentlemen's speeches; for I believe that, if I were to pass over and take no notice of twenty such tales as these, or twenty of those strange amplifications on which they have dwelt, or their repetitions of the same argument, or a variety of irrelevant matter, your Lordships would admit that I had passed over

* See Mr. Law's speech in opening the defence on the second Charge, vol. iii. p. 184.

14 MAY 1794. nothing that called for a reply, or that had made any impression upon the Court to justify a reply; and that your Lordships would be of opinion that the Counsel who informed you that the real point and substance of this question lay in a very narrow compass did give you a right opinion, though he unfortunately forgot to give it the sanction of his example.

Arrangement of the reply.

My Lords, the arrangement which I shall propose to myself is—to follow the speech of the learned gentleman who spoke in the same situation in which I have the honour of addressing you;—I mean, the learned gentleman who summed up the evidence.* There is certainly very fair and clear arrangement in that speech, which the learned gentleman has not been able to disguise by all the irrelevant matter which his ingenuity has heaped upon it. What other passages relate really to the purpose in the other gentleman's speech I shall take notice of; as they do, in fact, follow pretty nearly the same order which this learned gentleman has adopted.

My Lords, the first day's speech of the learned gentleman consisted entirely in endeavouring to establish two points which, if they had requested it or given an intimation that it was of any very material importance to them, and I had felt myself at liberty to act upon my own feeling and discretion, I would have tossed into the scale of their argument for nothing at all. The point upon which he spent the whole of the first day was to establish the original right to the treasures in the Wazir, and to establish as a principle that jagirs were in their nature resumable;—two points which I contend would avail him nothing if he had established them. And I wish your Lordships now to observe the candour of the Counsel in the manner in which he has introduced it. The learned Counsel says:—"We will now consider, as the honourable Managers have occupied so much time upon discussing the sort of claim to those treasures, and have thought it essential to their case—as most essential it is on our part—to show the original right of the Wazir to those treasures, it is material," he says, "for us to establish that the original right was in the Wazir."

Original right of the Wazir to the treasure.

Unimportance of the point.

Now, my Lords, according to my apprehension of this subject, it is perfectly immaterial for either of us to dispute

* The Hon. Manager refers to the speech of Mr Plumer, printed in vol. iii. p. 295.

that point. If the learned gentleman means to say that he recurred to his original right, I wish him to point out what interpretation he gives to the treaty of 1775. I say, we might have stood upon the treaty of 1775 alone; and that all discussion respecting the original right to the treasures is perfectly irrelevant and nugatory. The learned gentleman says that, upon the Begum's forfeiture of that treaty, he recurred to his original right. She certainly might have forfeited everything she possessed, but, when once that treaty was made, there was no other interpretation to be put upon it than that she was to retain these treasures *quamdiu se bene gesserit*. By one final partition upon the subject of the treasures, what the Nawab took he took as his portion; what was left with the Begum was left with her as her acknowledged right. Unquestionably, by an act of treason she might forfeit these treasures to the Nawab, as she might forfeit every other right—her property or her life; but to set up a plea that, the treaty being set aside, his original right recurred, shows a weakness in the argument of the Counsel and consciousness throughout that they cannot, in fact, prove the acts by which they say she did so forfeit that treaty. 14 May 1794.

But what I a little complain of here is, that the learned Counsel state as their reason for having argued this so much, that I had thought it particularly proper to lay so much stress upon it. Now if they had done me the honour to attend to my speech, they would have found that I went over that ground very lightly indeed, and that I prefaced and concluded what I said upon the subject with this remark:—I am glad the Counsel seem to have got my words under their eye:—that it was my original intention not to have touched upon the subject of original right at all, conceiving it to be a thing perfectly insignificant, but to have taken up the matter from the treaty of 1775; but that I was diverted from that intention by observing, in the course of the cross examination of the Counsel, that they meant to lay considerable stress upon the subject; and even under that impression I said, I was ashamed for having dwelt upon it at all or having taken up any of your Lordships' time upon the subject. And now the Counsel think it candid to state, that their reason for having occupied such an infinite space of your attention and of their own exertions upon it was—that the Managers were the persons who seemed to lay stress upon that point. Stress laid upon it by Counsel.

14 May 1794.

Facts stated by the Managers.

Now, as so much has been said upon it, it is not for me to assume that it is a matter perfectly insignificant. Therefore, my Lords, I must notice what it is that they have proved or attempted to prove upon that point. That which was laid before you by the Managers was this:—that, by the general custom of the country, persons in high situations, but above all persons in the situation of Asoff-ud-Dowla, that is, the reigning prince of a great and populous country—that, by the universal custom of the East, they did hold it a matter most sacred, in the prospect of their death, to provide independently for their wives, for their families, for all the women in the zanana, as it is called, and who were dependent on and belonging to them.

Universal custom among Indian magnates of providing for their widows and dependants.

Sacredness of the zanana.

Next, we showed to you the peculiar sacredness of the zanana; and we did argue from that, my Lords, that, as it was the custom to leave the treasures intended for the support of the women and for the portioning the offspring of those women in a place which was considered [sacred], as we proved by most satisfactory evidence and the admission of Mr. Hastings himself, and the sacredness of which never has been violated, either by war, by rapine, by law, or by any power on earth, till this instance given by the person whom we now accuse, that that was in itself an argument of the real destination, the use and purpose, of these treasures. And we also proved, my Lords, that Suja-ud-Dowla had entertained a peculiar respect for the Begum whom he left behind him; that she had shown him the greatest mark of fidelity and affection; that she had given him proof that whatever treasures he gave to her were ready on any emergency for his own use; that she had come down to him, after the battle of Buxar when he was in distress, with all the money, all the jewels, and everything that she had possessed.

Respect entertained by Suja-ud-Dowla for the Begum.

His dislike of his son.

We also showed that Suja-ud-Dowla had no affection for his son, Asoff-ud-Dowla, who was to succeed him, but, on the contrary, that he had once even attempted his life, which had been preserved to him by his mother, the Begum. We also showed that, in Suja-ud-Dowla's lifetime, when he had drawn upon these treasures then kept in the zanana, his draught was refused, but that, when the Begum drew upon them, then acknowledging them to be her property, the draught was accepted: a circumstance which, I believe, Mr. Middleton attempted—and no man but Mr. Middleton could have endeavoured—to show was a proof that the

Power exercised over the treasure by the Begum during the life of her husband.

14 MAY 1794.

treasures were the Nawab's, and not the Begum's. But we also showed to your Lordships that the object to which we supposed these treasures were destined was of extent sufficient to require what was supposed to be their whole amount; namely, that the family of Suja-ud-Dowla with the family of Suffdar Jung, his predecessor, consisted of above 2,000 women and children and their attendants.

Distress of the women on the plunder of the treasure.

We showed also, by the admission of the Counsel and of Mr. Hastings, that this treasure and the jagirs of the Begums were, in fact, the real resource for the maintenance of these women and children; and we also showed to your Lordships that, when the jagirs were taken from them and when they were plundered of their treasures, these women were driven to famine, to desperation, and at last were turned, many of them, outcasts upon the world.

Reply of Counsel.

Now let us see what the learned Counsel oppose in reply to this mass of evidence. In the first place, they have not attempted to dispute that that posthumous jealousy with respect to their women was the feeling and the general sentiment of persons in the position of Asoff-ud-Dowla throughout the East. They have not attempted, for they could not do it, to deny the sacredness of the zanana; but they have denied that their being deposited there could be considered as any serious argument of the destination of the treasures.

Argument from the place of custody of the treasure.

I contended that the treasure being placed in a situation which no human power on earth can get at, but those who are themselves living in the zanana, is a strong presumption that for their use alone that treasure can be intended. The learned Counsel, however, do not choose to trust that as a serious argument. And here they indulge a considerable degree of that pleasantry, which I must say has characterised their eloquence throughout all their speeches. The only difficulty I have sometimes found is—and I say it really without any affectation, but very seriously—to discover when they meant to be serious and when they were jocose. I really often admire much more their imagination than their arguments; and I see frequently infinitely more fancy in their facts than in their jests.* Sometimes, when one would imagine that they are going on in a fine vein of solemn

* The reader will recognise in this passage the witticism of which Moore instances the elaboration in Sheridan's mind, during a period of some years, from his first diffuse expression of it in his memorandums for the Comedy of Affectation, to the very compact form in which he eventually uttered it, in

14 MAY 1794. irony, they are dealing in narrative and plain fact; and, very often, when I thought they were stating mere dry argument and fact, I found it was sheer drollery and humour. Now which this is, I must leave to your Lordships' judgment.

Counsel's attempt to ridicule the Manager's language.

I beg your Lordships' pardon, but I am afraid I must quote this from memory, but I assure the Counsel I will do it very accurately. Perhaps the Counsel can point me out the place—I do not believe it could very easily have escaped the Counsel's memory, for it is one of the most laboured passages in the whole of his speech—I mean, where he ridicules my statement, that "the title of these ladies to this treasure was the title of a saint to the relics on an altar, placed there by the hand of piety," I think, "guarded by holy superstition, and to be wrested thence only by the hand of sacrilege."* That was the unfortunate statement which I happened to make, and which I maintain was a serious argument and not a flight of fancy. And the learned gentleman first laughs at the idea of this lady being a saint: he indulges a good deal of facetiousness upon that subject. He then says,—"placed there by the hand of piety! they were placed there by the hand of rapine and bloodshed—by Suja-ud-Dowla." Then he says,—"placed upon an altar!"—And here the Counsel was extremely facetious: the whole is at great length: I regret I cannot lay my hand upon it:† he says:—"placed upon an altar! how can that be? for what were some of these treasures?—camels and elephants." And then he gravely says;—"how can you get a camel upon an altar?" These are his words. I give you my honour, my Lords, I really do not know how to reply to this. I am sure it is not law nor logic, and I shrewdly suspect it is not wit. He then says,—"guarded by holy superstition! why, they were guarded by two eunuchs." He says, whether they were very holy or not he will not pretend to say, but that they were perforce innocent:—a very decent allusion! But this really is the method in which the learned Counsel ran through this unfortunate simile of mine. And I do protest, if I had known that I could have drawn such a laborious

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his retort on Mr. Dundas in the House of Commons, that "the right honourable gentleman is indebted to his memory for his jests, and to his imagination for his facts." Life of Sheridan, p. 304.

* See Mr. Sheridan's speech, vol. i. p. 494.

† The passage Mr. Sheridan refers to is in Mr. Plumer's speech of the 25th of April 1793; vol. iii. p. 342.

effort of wit and ingenuity from them by any illustration of that sort, I certainly should have abstained from it. But I believe your Lordships will admit, that you never saw or heard of an unfortunate simile so hunted down before; that you never before saw special pleading employed upon such a purpose; that you never before saw a bill of indictment against a metaphor, or were present at the trial of a trope at *nisi prius*—for that is literally what the Counsel have done. But I must say, not attempting to decide whether they meant it as seriousness or as argument, that, if I was to reply to them in their way, I should deny their fact. 14 MAY 1794.

The learned Counsel has been so employed lately in researches in the Kuran that it is not surprising if he has a little forgot testimony of higher authority, at least, in the Christian volume. If he had, he would have recollected such a circumstance as the altar built by Solomon, the breadth whereof was twenty cubits, the height thereof was ten cubits, and the length thereof was twenty cubits; and that the multitudes of Israel assembled before it; that thereon they sacrificed oxen and sheep so that they could not be told or numbered. Therefore, in point of fact, if the learned gentleman meant it, and I was to reply to him in his own manner, whether he is serious or jocose upon this occasion he is equally unsuccessful; for, if serious, what he states is not a fact, and, if he is humourous, it is not a jest.

My Lords, however, I must do the learned Counsel the justice to say that they have not entirely built upon this laboured effort of wit of that very learned and facetious gentleman: they have also attempted to bring certainly other arguments and documents to prove the original right of the Wazir to these treasures. They have attempted, my Lords, to quote from books of high authority—from the Kuran, from the Hedaya — paragraphs which they have placed upon the evidence, which your Lordships may have observed, in which they endeavoured to show that by the Mohammedan law the [widow] is intitled only to an eighth, and so on; and that there can be no property whatever claimed upon which there are any debts; that the discharge of the debt is the first object to be looked to; that the Company had a great debt upon this property, consequently that it could not belong to the widow. And they have shown that, whenever there is a will or property descends, there ought to be, according to the Hedaya, no partition of such [property] contrary to that will.

References made by Counsel to the Kuran and Hedaya.

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Misquotation imputed to Counsel.

Now I must complain a little here that the learned gentlemen have, in a strange manner—I was almost going to say scandalous, but certainly it was not intentional upon their part—garbled and misquoted all the authorities to which they refer. We have since placed upon your Lordships' Minutes proof that, according to the Hedaya, whatever the title—by will or descent—if the parties choose to come to an agreement upon the property, that agreement is binding.

Examination of arguments for the Nawab's original right to the treasure.

With respect to debts attaching in the first instance upon the property, I will not enter into that discussion or dispute the law with them; because, if I did so, in point of fact, in 1775, the whole of the debt due from Suja-ad-Dowla to the Company was discharged, and by the means of the treasure given up by the Begums. Therefore their whole argument upon that goes for nothing at all.

The next thing they attempted to show, which they thought a pretty strong article of evidence, was the reason why the Nawab's draft was not answered and the Begum's was. They give the Begum a very high post and office: they say she was Lady High Treasurer; that it was not in a regular official manner of proceeding; that the Nawab should have drawn [upon] this High Treasurer, and that then the draft would have been answered. And they justify Mr. Middleton's inference that, when the Nawab drew, his draft was refused; that, when she drew, her draft was answered; and therefore that the treasures must be the Nawab's and not the Begum's:—they justify Mr. Middleton's inference and say, it was merely on account of an official mistake:—a pretty extraordinary circumstance, when we have shown that the Nawab was with the Begum at the time this transaction passed! That he should be ignorant of the forms of his own office, and forget that it was necessary the Begum should sign the draft and not himself, is a circumstance very extraordinary and totally incredible.

Alleged amount of the treasure.

With regard to the amount of the treasures, the gentlemen throughout the whole choose to assume that their amount was 170 lacs, and they speak really as if they had been in the zanana and had counted every rupee of them. There is not a syllable of evidence before you to prove what the extent of the treasures was. There is nothing but a conjecture of Mr. Bristow's—a conjecture of a person employed, in fact, to extort money at the time from the Begum, and who of course would be likely to represent the treasures to be as extensive as possible. But the Counsel entirely

pass over our endeavours to give a different turn to the admission of the Council at Calcutta, respecting a dispute which arose in the delivery of the sum which by agreement was to be paid to Asoff-ud-Dowla, according to the treaty of 1775. They have gone into the matter at considerable length; which, I own, surprised me very much, because I thought I had made the thing so perfectly clear before that it really could not have admitted of a single doubt in the mind of any man whatever, that the dispute arose, not respecting the original right of the treasures, but respecting goods, camels and elephants, delivered by the Begum to the Nawab, and which he contended, not having been in the zanana, ought not to be claimed as hers. The evidence adduced upon that and the direct inference which stands upon your Lordships' record is, that all the Council to a man admit that she was intitled to all the treasures within the zanana; which, I insist upon it, stands uncontradicted. There is a word or two of Mr. Francis' in one place that seems to doubt her original right to them; but that, being in the zanana, the treasures were hers and not the Nawab's, is the general admission of the whole Council, and Mr. Hastings most especially, who even calls the attempt of the Nawab to obtain any part of these treasures, an act of exaction! I say, then, that, upon the whole either of the evidence or of the argument adduced by the learned Counsel, the question of the original right—unimportant as I contend it to be—stands exactly where I left it, when I had last the honour of addressing your Lordships.

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Dispute between Asoff-ud-Dowla and the Begum.

The Begum's right to the treasure in the zanana admitted by the Council.

The next point which the learned Counsel proceeded to is to prove, first of all, that the jagirs are in their nature resumable: and then, that the Begum's jagirs were not granted to them, but during the pleasure of the Nawab. I am astonished how the learned Counsel should quote so much authority upon this subject, which they certainly appear to have examined most carelessly; for I need not enter into this matter but to answer them, in one word, that their position—that jagirs are in their nature and by the laws and customs of the East resumable—is directly refuted by such a mass of evidence we have since brought in reply as can leave not a shadow of a doubt upon the subject. We have loaded your Lordships' table with copies of parwanas, of grants of jagirs, having the sanction of Mr. Hastings himself to almost every one of them, which prove in the general that the prevailing custom of the East was, that the jagirs were granted either

Jagirs, by law and custom, not resumable.

14 MAY 1794. in perpetuity or for life. Nay, we proved, in the case of jagirs which contain an express clause of resumption at the will of the grantor, yet that the practice had been so much the contrary that even these were considered as jagirs of descent.

Admission of the Nawab that the Begums' jagirs were not resumable by him.

With regard to the particular jagirs of the Begums, we certainly have it not in our power to give a direct proof that the parwanas by which they were granted stated them to be in perpetuity or for life; but we have placed before your Lordships a considerable mass of evidence, which shows that the Nawab himself admits that they were not resumable by him, even previous to the treaty. We have shown that the elder Begum states that one of her jagirs was derived from Shah Alem, the King himself; that she states she had constantly left the collection of it in the hands of her son, Suja-ud-Dowla; that she was not the loser by so leaving it in his hands. We have stated that the Nawab himself afterwards, in the jagirs which he grants to the Bow Begum, in the manner and tenor of his admission of the grant, seems to admit they were granted for life to her; and that, when he offers afterwards to resume them, she so pleads the fact to be; and also [of the] other jagirs she says—"they were not granted by Asoff-ud-Dowla, and therefore he had no right to resume them."

My Lords, I shall not dwell upon this, because it is a circumstance wholly unimportant; for whether the jagirs were granted for life or not, and whether it is the custom of the East that they were resumable at pleasure or not, is exactly upon the same ground as whether the treasures were by descent the Begum's or the Nawab's. It is a matter unimportant, not worth scarcely an argument; because by the treaty of 1775, and afterwards of 1778, the jagirs were made over for life or in perpetuity to the Begums, and the remaining part of the treasures was made and admitted to be their property. That ends the argument of the first day of the learned Counsel; in which I affirm that he has completely failed in proving that which he has stated to be essential to his case;—namely, the original right of the Nawab to the treasures, and consequently his right to recur to them, upon the forfeiture which is stated to have been committed by the Begum.

Treaties of 1775 and 1778.

And now, my Lords, I come to the circumstance of the treaties, which is the real and more important part of this business. I am sure your Lordships recollect the circum-

Inconsistency of

stances of the treaty of 1775 particularly; and your Lordships, I am sure, must have been surprised to find that, though each of the learned Counsel admits that that treaty was in the most solemn manner binding both upon the Nawab and upon the English nation, they had spent a very considerable portion of their time to prove that it was a treaty obtained by extortion, and—according to the terms of the learned gentleman—that it was, in fact, in itself null and void. And yet, my Lords, the learned Counsel, having spent one day in endeavouring to establish a point which, I contend, if he had established it, would have made nothing for his case, occupies nearly the whole of the second day in endeavouring to invalidate a treaty, when he concludes by admitting its validity in the utmost extent. It cannot be expected that I should feel the necessity of following the learned Counsel through all the various quantity of time which he has spent in endeavouring to prove that the treaty was a treaty of extortion; that it ought not to have been made; that it is in itself null and void; when the Counsel himself, and each of them, concludes with saying that he admits it had the most sacred binding force, and that it was so considered by Mr. Hastings and by the Council. The learned Counsel, after having laboured to prove it to be a treaty which it was fit to consider as nugatory and void, and as obtained by extortion, proceeded in a detail of a variety of instances in which Mr. Hastings showed the most sacred regard and respect for this treaty. The Counsel did not perceive, perhaps, that it would have answered their argument better to have endeavoured to have shown that it was always considered by Mr. Hastings as a treaty extorted, and which had something in itself wrong and unfit to be much attended to; whereas, on the contrary, they labour the point extremely to show that, upon various occasions, whenever the Nawab or his ministers attempted to oppress the Begums and infringe this treaty, Mr. Hastings always resented such conduct; that he always upheld the cause of the Begums; that he always reproached them with an attempt to violate so sacred a treaty, and that he always himself considered it as binding.

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Counsel's arguments respecting the treaty of 1775.

There are a variety of cases in which it appears to me that the Counsel, with a very perverse ingenuity, attempted to establish points the very reverse of which it would have been their interest to establish. It would have, in this case, been their interest to establish the contrary of this proposition; because what was the effect of Mr. Hastings' maintaining so

Their proposition injurious to the interests

14 MAY 1794. of the defendant.

frequently the sacredness of this treaty, but to infuse in the mind of the Begum the most perfect reliance that Mr. Hastings would be the last man on earth that could ever countenance the violation of it? If it had happened that at different times the Begum was aware that this treaty was not considered as sacred by the British nation, it must have been some caution to her in her conduct, supposing she was capable of offending the British Government; but, when she found it treated in that manner by Mr. Hastings, she was entrapped into a notion that, at least, the manner in which that treaty was obtained or the circumstances attending the guarantee could never be a reproach to her, or be brought forward as a pretence for the violation of that treaty.

Similar blunder in respect of Mr. Hastings' journey to Oude.

In the same manner, the Counsel took infinite pains to prove that, when Mr. Hastings left Calcutta and went into Oude, his situation, previous to the attempt to seize the treasures of the Begum, was so desperate, that it would have been ruinous to the Company, and disgraceful and ruinous to himself, if he had not obtained a large sum of money. The gentlemen had better have proved that the Company was in prosperous circumstances, and then they would have established that he had no temptation, beyond what applies to the just punishment of treason, to look out for resources. They took pains to prove that, throughout Oude and in all India, there was not a single rupee to be acquired but from the treasures in the zanana belonging to the Begums. Here they had better have represented the Nawab's affairs in a more flourishing situation; that Mr. Hastings could have negotiated a loan from Gopal Doss or the Nawab's ministers; and that there was some other resource besides that of the Begums. For all those circumstances bring with them considerations of strong suspicion that, where the necessity was so great—where the supply existed only in one place—some means, foul or fair, would be used to obtain that supply. I said that, the binding force of this treaty of 1775 being so fully admitted by the Counsel, it would not be necessary for me to trace them through the insinuations which they have stated with regard to the manner of obtaining it. But, my Lords, there is another treaty—I mean the treaty of 1778—upon which again, to my surprise, I find an infinite deal of time wasted in a discussion, when they at last admit, in point of fact, the binding validity of that treaty also:—I mean the treaty with the elder Begum. The learned Counsel have stated, in their defence for Mr. Hastings,

Treaty of 1778, with the elder Begum.

Its validity denied by Counsel.

that they solemnly deny that the faith of the British nation ever was pledged to the elder Begum. I thought I had proved so forcibly to your Lordships that that was at least an erroneous assertion, that the learned Counsel would have had the discretion not again to meddle with the subject. However, they have again brought the matter forward. They have endeavoured to show you that that treaty never was sanctioned by the authority of the Board; that it was an act, if signed by Mr. Middleton, which they deny, of Mr. Middleton's own; and that the faith and guarantee of the British Government never were in any respect pledged to the elder Begum. They have not followed my argument upon the subject, or they would have seen that I have proved to your Lordships that the real construction of the letter of the 23d of May was what I have given it, namely, an application from Mr. Middleton stating two alternatives to the Council at Calcutta;—first, that he conceived there would be no objection to his entering into a guarantee with the elder Begum, if he could obtain the Nawab's consent to it; but that, if he could not obtain the Nawab's consent, then he wished for permission in a manner to compel the Nawab to do her justice. The Counsel, receiving both these letters, answer, that they approve of his method of conciliating the differences, and of obtaining the security to the elder Begum, she having stated in this letter that the only security she could or would accept was the guarantee of the English. But then they negative the second proposition of Mr. Middleton, namely, that of compelling the Nawab, or of using any act of that sort towards him. They withheld their consent to that, but they fully approved the other mode proposed by Mr. Middleton.

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Mr. Middleton's application to the Council.

They sanction the giving a guarantee the Begum.

Then what is the fact?—that the treaty is signed by Mr. Middleton. It appears afterwards that this treaty is [sent] down by Mr. Purling to the Council as a binding treaty; the elder Begum having pleaded that she had such a treaty under the signature and seal of Mr. Middleton, and that the Company were her guarantee. The Counsel here make a most extraordinary observation upon this. Because they found they could not easily get rid of the fact that we have proved—that, when this communication was made, Mr. Middleton was at that very moment in Calcutta; that he was not only in Calcutta, but that he was at that very time consulted by Mr. Hastings, and consulted respecting the affairs of Oude, so that there could be no pretence that

14 MAY 1794. he could not be examined upon this subject; that the result is that the Council return the treaty and desire that the jagirs may not be touched, because it is stated that they had the guarantee of the British nation;—the learned Counsel upon this say, it was a paper sent down to them, and the reference to this treaty was a mere marginal note; and one of them describes it to be a matter in a small hand: as if the printed Evidence before your Lordships was the exact type and counterpart of the communication to Mr. Purling, and that the circumstance of being a marginal note did not intitle it to the same degree of observation as if signed in a large broad hand! And the Counsel, although they made exactly the same answer upon that occasion, if they will look fairly into this letter, it is impossible that they can for an instant deny that the treaty of 1778 with the elder Begum had as fully the guarantee of the British nation as the treaty of 1775 with the younger Begum; and that, when Mr. Hastings left Calcutta, he left it as much bound by the terms of that treaty as the other. But I say again, this matter is not worth disputing with the Counsel, because they admit that, in another treaty made with the Bow Begum in 1778, all the essential parts of the treaty made with the elder Begum are confirmed; by which I shall always contend that we guaranteed a provision to the Khourd Mahal as well as to the Begums.

Subsequent admission of its validity.

Objections of Counsel.

Confirmation of the treaty in 1778.

There is one circumstance, however, attending the speech of the learned Counsel upon the treaty of 1778, which I must take something of a very particular notice of. My Lords, I have really looked carefully through the notes of the speeches which I had the honour before of making to your Lordships, to see if, in any one respect or on any one opportunity, I had been deficient in that respect to the learned Counsel to which I certainly felt them intitled by their general character, and by everything that I have heard respecting them. I profess, I find that I have been guilty of no such disrespect; that, on the contrary, wherever I have mentioned them, I have mentioned them in terms which I am sure it would not be unflattering to them to have repeated. With this explanation, I must express a considerable degree of surprise at the manner in which one of the learned gentlemen has thought it decent and thought himself authorised to treat me—standing here as a Manager for the House of Commons—in a discussion respecting this treaty of 1778, which that learned Counsel bestowed infinite

Perversion of evidence imputed to the Manager.

pains upon. He has this passage in his speech, to which I must humbly request the particular attention of your Lordships. He says:— 14 MAY 1794.

"I will now advert to another passage in the evidence before your Lordships, which I do think transcends anything I can say. It is enough to state the fact; [and if your Lordships recollect in history]—if any person who has been present at trials recollects—anybody having done these sort of things, I will admit the honourable Manager has fairly and honourably adopted that precedent."

He adds:—

"I am sure I do not wish to say anything improper and disrespectful, but, if this had been done by any of us in the ordinary lines of the profession, it would be considered as a species of judicial legerdemain. I do not know any other name to give it. I will show your Lordships how a question was asked about one treaty and a clause read out of another, and the witness confounded and completely put out of countenance, and the credit of that witness most unjustly disposed of."

A grave and solemn charge, my Lords, I admit.

"God forbid anything should be taken on my assertion! But, if it is not as clear as the light of the sun that shines upon your Lordships, [that this perversion has been made of the testimony, let all my observations] go for nothing, and let the honourable Manager be deemed one of the most fair, as he [certainly is one of the most eloquent, persons ever employed] upon such a subject."*

It is applied to Mr. Middleton, he says. He then states that, in page 517 of your Minutes, your Lordships will see the copy of this treaty. I need not read the extract from that part of the learned gentleman's speech: he goes on to require your Lordships to turn to page 520, and he says,—

"The honourable Manager puts this question to Mr. Middleton:—'whether there is not any clause whereby the Nabob binds himself to demand no loan of the elder Begum?' Mr. Middleton says, and he said very truly, 'No, I do not recollect.' Then the honourable Manager, for what purpose of truth or justice let him explain—read to him a passage out of the treaty with the younger Begum, as if it had been the treaty with the elder:—'Moreover his Highness shall not at any future period make demand of a loan or any other demands from her Highness;' and he reads it to the witness as if it was a paragraph in the treaty with the elder Begum. Mr. Middleton"—the Counsel says—"not having, as your Lordships must have observed, a great deal of presence of mind, was perfectly confounded. He sat down as convicted of the grossest falsehood, and the honourable Manager had a temporary triumph in that show of conviction. Now, at the distance of five years, the matter is set straight. Did Mr. Middleton"—mark

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* See the speech of Mr. Plumer; vol. iii. p. 268.

14 MAY 1794. this word—"impose upon your Lordships, or who did? I have no right to urge this against the honourable Manager: he is answerable to his own conscience."

Refutation of the charge.

My Lords, I am: and I should be ashamed to face this Court if I could not clear myself, at least, from the intention here imputed to me. My Lords, I believe the learned gentleman will admit, if this had been an act of inadvertence—if it had happened afterwards in the course of my speech and comment upon this part of the evidence—that I could not have intentionally endeavoured to entrap Mr. Middleton. I believe the gentleman will admit that he has urged this charge in terms in which he ought not to have urged it. The learned gentleman seems inclined to afford me this grace and concession. But does the learned gentleman think I ask his favour upon this occasion? No, my Lords; the fact is that the whole of this charge is founded upon a complete, gross and scandalous, blunder of the learned gentleman's own! I say a blunder; for even the example of his total want of candour shall not make me stoop to retort the insinuation that the error was wilful. But it is unpardonable, I say, my Lords; for, in a case like this—in accusing the person he was accusing—for in my character in this [matter] the character of all the Managers and of the Commons of England would be implicated—he ought, and it was his duty, to have looked well to the grounds upon which he brought such a charge.

Now, my Lords, what was the fact? Was it a fact that such a question was put to Mr. Middleton and that the wrong treaty was so shown to him? My Lords, it was a fact. Was it a fact that that question and that proceeding did puzzle and confound Mr. Middleton? My Lords, so the fact was. But there is another little circumstance which that learned gentleman ought to have inquired into before he brought this charge against me, namely—was it I that did it? No, my Lords, it was not. It was one of your Lordships' Court: it was the late Earl Camden, whom we all regret, who put the question and directed the treaty to be shown the witness; and, what is more curious, I was the person who set Earl Camden right upon the subject! Now what will that Counsel say upon this matter? What did he see in any part of my conduct or character in this business that could make him think I could stoop to such a proceeding;—for it could not be error in me, and the Counsel more than insinuates that it could not be so? and for what

purpose was the momentary triumph that I was to obtain? To disconcert Mr. Middleton? Good God! your Lordships remember Mr. Middleton at your bar. Could you imagine that I could have such an object; that I should try to mislead equivocation?—to intimidate servility?—to browbeat panic?—to make confusion worse confounded? It is impossible that your Lordships or any person could conceive that I could have had such an object, much less that I could stoop to such means to effect it. 14 May 1794.

But, I believe, Mr. Middleton would not thank the learned gentleman for bringing him forward again in so conspicuous a situation to this House. Your Lordships, I am sure, remember his testimony when you saw him at your bar—as it were, prevarication personified,—when you saw me treating him with peculiar tenderness; for, if I had applied to your Lordships in some part of his testimony, you must and I am sure you would have committed that immaculate gentleman whom the learned Counsel were endeavouring to set up so high. It is not their interest, I say, to have endeavoured to have restored the credit of this testimony by the means which they have used. Remembering the whole of his evidence, I may say that that gentleman did certainly produce the exercise in others, in a very eminent degree, of that faculty of which he seemed totally dispossessed himself. I do believe there is nothing more memorable in the whole of this trial than Mr. Middleton's total want of all memory. I believe there is nothing which your Lordships forgot so little as his total oblivion of all the material passages of his life. This is the fact with respect to which the learned Counsel, I say again, should have well considered the subject before he had brought such a charge.

Prevarication of Mr. Middleton.

But it is not merely a charge against me: it is in some measure an accusation against himself. The learned gentleman says that I confounded and confused the presence of mind of Mr. Middleton; that he sat down confounded, and his credit disposed of. Why did not the learned gentleman take care of his credit, then? Was he so ignorant of the treaties as not to know that that which was secured by the younger Begum could not have been placed before the eyes of this Court as the the treaty which the elder Begum had? Why did he suffer this witness, whose credit was so essential to the cause of his client, to be disposed of by such a mean and paltry trick?

Immediate correction of the mistake respecting the treaties.

14 May 1794. The learned gentleman was guilty of no such thing. If he had looked to the Minutes, which he ought to have consulted as well as to the printed Minutes, he would have found he assisted, as he ought to have done, to set your Lordships right, and that this confusion of Mr. Middleton did not last for an instant; for the matter was instantly explained, and the Counsel himself assisted in doing it. But the gentleman, in undertaking the defence of the presence of mind of Mr. Middleton, seems to be affected with the memory of Mr. Middleton; for it is a little extraordinary that he should have remembered the fact of the confusion and the ill consequences of a total disposal of the credit of the witness, and yet entirely have forgotten by whom that was effected.

But I have taken Mr. Middleton's part in a degree upon this subject: I have taken also the learned Counsel's part: but there is another person whose cause I also must take upon me to support. The learned Counsel ends his imprecation by saying, that, if he does not prove that I have been guilty of a thing worse than anything that Mr. Hastings has been guilty of, he implores your Lordships' condemnation of him. I implore your Lordships not to grant that request to him! I must take Mr. Hastings under my protection, and save him from the peril into which his defender has brought him. I must implore your Lordships not to visit the sins of the Counsel upon the client! I must intreat your Lordships not to take for granted that I have proved every charge against Mr. Hastings, because Mr. Law has failed in proving this single charge against me!

But it is not the only penalty which the Counsel wishes to follow his failure upon this instance. He says that, if he does not make it as clear to your Lordships as the sun—which I suppose then shone upon the Court—"let all my observations go for nothing!" But does the learned Counsel think that I will enforce this penalty? No; I will not let him off so. On the contrary, if your Lordships think me intitled to any atonement upon this matter, as I am sure you do, my revenge shall be to entreat your Lordships to remember every word the Counsel has said, from the beginning of his speech. If time would permit, I would endeavour to remind you with the most vindictive accuracy of every argument, of every reasoning, of every statement, of every jargon, of the Counsel, from the beginning of his speeches to the end of them. And, if I could, and they were to live in your Lordships'

Character of Counsels' reasonings and statements.

memory, and you were to be at the trouble to recollect them, I am sure you would find that all his facts—that all his reasonings—that all his arguments—have precisely as good a foundation as the charge which he has now brought against me, and are equally worthy of your Lordships' notice and approbation. 14 MAY 1794.

My Lords, if this matter related to myself only, I should have done with the learned Counsel here, but, feeling as I do the character of the Managers for the Commons implicated in the matter, I must say a graver word or two still to that learned Counsel. My Lords, that learned Counsel says of this trick of *legerdemain*—this scandalous imposition; for such it would have been—this mean, dirty, shift—that it would have been called by these names in the ordinary lines of the profession. I must tell that learned gentleman, that, if he judges of us, in the character in which we stand here, by the rules which are to regulate him in the ordinary line of his profession, he neither understands our situation nor his own. I tell him that we stand here upon different and higher ground than that learned Counsel can do.

Respective positions occupied by the Managers and Counsel.

My Lords, I do not mean to assume an arrogance from my situation. I trust I am the last man on earth that would wish to presume on a little brief authority, or to state an unfair inequality between men in your Lordships' judgment. In many respects we are equal, but I say that we do stand here in a different and in a higher character; that upon this account your Lordships have a right to expect from us a superior degree of purity and fairness, if I may say so, in our proceedings—a greater abhorrence of anything like shift or indirect proceeding in the course of this trial; that you have a right to expect from us a conscious conviction of the rectitude of the measures which we are pursuing; that it is our business and object, not merely to convict the person accused, but to bring the whole truth before your Lordships. And for this reason I say, my Lords, the learned Counsel cannot claim that that is their situation. It is not the duty or the business of a Counsel to be conscientiously convinced—much less to profess it—of the justice of the cause which he is supporting. It is a happiness enjoyed under a constitution like this, that the merciful generosity of the law considers every man as innocent till he is convicted. It is legal evidence alone by which he can be convicted. Every person is equally intitled to the assistance of Counsel learned in the law. Confessing, detected, guilt even is equally intitled to

14 May 1794. that assistance. He is intitled, not merely to his abilities and to his arguments, but that he should take every advantage that is not absolutely unfair; that he should produce his acquittal by any irregularity even in the proceedings against him—by any flaw in the indictment: and, though a guilty person by such proceedings may sometimes escape, yet, in matter of advantage, the strictly adhering to these forms is the true security of English justice and the basis of true British jurisprudence. Therefore a Counsel is not to profess that he thinks in his conscience his client is innocent. If he does profess it, undoubtedly he thinks so, and it may produce some momentary effect upon the judge and jury; but, when he abstains from professing it, does not that Counsel see that his silence becomes the most damning evidence against the client whose cause he is bound to support; and that he himself, who ought to defend him, may be the means of his condemnation?

Higher nature of the duties of the former.

My Lords, we do not stand upon that ground. I say that the Managers for the Commons were bound, before they appeared here, to be convinced of the justice of the cause which was committed to their care. And I do protest, for one, that, entering into this cause with a peremptory conviction of the guilt of the person whom we were bound to arraign, and regretting as I do that that impression has not been diminished but strengthened by the defence which I have heard, if, in the course of it, I had found by reasoning or by evidence that I had embarked in error and that the person was innocent—if that previous conviction in my own mind had been removed—I would have returned to the Commons and said that it was my duty to decline the office, and that some other person ought to be appointed in my place. This I hold to be the duty of a Manager; and that it is his duty, even if he saw, by some error or mistake, your Lordships misconceiving any matter of testimony which was given at your bar, and that it made by error and mistake an impression against the criminal—that it would be as much the duty of the Managers for the Commons to remove that impression from your Lordships' minds as it would have been for the Defendant's own Counsel; for that we stand here not foully to procure a conviction of the person, but, respecting our situations in proportion to the weight and authority with which we act, that we are bound to act with an additional purity, and to omit no methods that your Lordships' judgments may be formed upon a full view of

the whole truth,—whether it tends to convict or acquit the person accused. This I take to be the distinction between the Managers and any feed Counsel in any Court whatever —that they have different duties, and that a superior degree of rectitude ought to be expected from them. And therefore I say, that if the gentleman had understood the character in which we stand, that if the gentleman had understood his own professional character, it should have given him a tenfold degree of caution before he had brought such a charge as the present. My Lords, there I shall leave it; and I trust it will be a warning to that learned Counsel, when next he accuses any Manager or any other person, either to be a little more cautious in his charge or a little surer of his fact. 14 MAY 1794.

My Lords, I have thought it my duty to dwell a good deal upon this matter. It may be also proper to state to your Lordships that the error, as I conceive it, into which the learned Counsel fell, was his looking simply at the printed Evidence, and not giving himself the trouble to compare it with the notes of the short-hand writer, which, I believe, would be admitted, even by the clerk at your Lordships' table, to be more correct upon the subject than his notes even affect or attempt to be. But what makes it more extraordinary is, that, if the learned gentleman had taken the trouble to have cast his eye a little above the passage he has quoted, he would have seen that the examination on the part of the Managers had ended, and that the question following had been put by a noble Lord, and that according to the order of the testimony it had not been again interrupted, and that the inference ought to have been—that the examination had continued from that break by the Court, and had not been resumed by any of the Managers. Earl Camden says:—

Source of Counsel's error.

Accuracy of the short-hand notes.

Reference to printed Evidence.

"I should be glad to know from the witness"—I have before stated I had done my examination—"for what reason it was that he did not send an account of this material transaction either to the Governor or to the Board?"—"I could have had no other reason than not considering it as any new transaction, but merely a confirmation of the former."

Earl Camden. "I should be glad to know whether, now the treaty has been read to him, he is ready upon his own observation to say that they are precisely the same?"—"They are not precisely the same. There are some exchange of conditions proposed and agreed to by the Nabob and the Begum mutually."

Earl Camden. "Whether there is not a clause whereby the Nabob binds himself to demand no loan from the elder Begum?"

14 MAY 1794. *Lord Chancellor.* "Do you recollect that clause by which the Nabob binds himself to demand no loan from the elder Begum?"—"No; I don't recollect it."

Lord Chancellor. "Read that passage again, then. I think there is such a clause."

The clerk read; and then it was, I presume, that Mr. Middleton is stated to have sat down confounded. Mr. Law afterwards himself states—"That relates to the younger Begum." And there the whole matter was cleared up: and therefore the confusion of the witness continuing in that manner was matter of imagination of the learned gentleman.

My Lords, the Counsel now are certainly come, at the end of the second day's speaking, to where, in my opinion, they ought to have commenced the first day's speaking: they are come to the point, whether or not—the guarantee and treaty having been admitted by us all, and the original right either to the treasures or guarantees being totally out of the question upon any other [ground] than as settled by that treaty—they come now to whether the Begum did, or not, do anything to violate that guarantee. They seem to come to that very slowly and with considerable reluctance; and now they have got closely to it they touch it with great caution.

Question of the violation of the treaty by the Begum.

Needless citation of authorities on the part of Counsel.

The learned Counsel says, that Mr. Hastings conceived by the law of nations that every treaty is upon an implied, if not an express, condition of mutual friendship. He then quotes a passage from Grotius, to show you that a treaty is always binding upon both parties, and he refers to another quotation to the same purpose, made by his learned friend from Puffendorf: he adds—"I find Vattel in his second book states the same doctrine." Then he says,—"if mutual friendship be an implied condition of a treaty of guarantee, the violation of that treaty dissolves the whole." He then quotes Puffendorf again, as quoted by his learned friend, upon which I will not tire your Lordships; but it is stated that all the articles of a public treaty are in the nature of conditions, and that if one of them be not fully performed it dissolves the whole.

He also assures you from the same high authorities—and all the way through it is very observable the caution which the gentlemen use whenever there is no occasion; whenever they want to establish any self-evident proposition—any palpable truism—they proceed with the utmost degree of diffidence; when anything very silly is going to be pro-

duced, it is countenanced by a quotation from Puffendorf! 14 May 1794.
I am certain, if the Counsel had occasion to risk the assertion that two and two make four, they would quote Cocker's Arithmetic. It is not a want of art; for they want to impress upon your Lordships' minds that they will risk nothing — hazard no assertion; that they will bring their authority with them every step they take: and when they have established, as they think, that sort of character for diffidence and caution, under the mask of that assumed caution, whenever they come to facts or to real important matter, they make no scruple of assuming the whole—not only without any proof or evidence, but in the very teeth of proof, evidence and fact. They say—without going into more authorities upon this subject, it seems to be a self-evident proposition—that one party who is guarantee for another ought not to leave the other party in the enjoyment of the means which that other is employing for the destruction of the protecting party. I would have admitted all their propositions, all their doctrine upon this head, which may be very edifying to other parts of the [audience], without giving them the trouble of quoting a single authority. As the courtesy of this House allots a box even for foreign ambassadors, I hope when the gentleman made this speech there were a number of these ministers present; that they understood the language; and, if they did, that they received all these undoubted diplomatic truths with all the respect and reverence they deserve.

Respective obligations of parties to a treaty.

This being established, we come to the question, whether or not the Begum did violate this guarantee. And here, my Lords, the learned Counsel go into a considerable mass of evidence which, I confess, it was my idea they never would at all have resorted to. I did myself take a considerable degree of pains with respect to that part of the evidence upon which the Begums were accused; I mean the affidavits taken by Sir Elijah Impey. The learned Counsel, however, dissatisfied with my statement of them, which upon reviewing I really think perfectly fair and candid, have gone over the whole of these affidavits again. My Lords, I will not follow them again through that subject. I have winnowed that chaff before, and I insist upon it that there is not, throughout the whole, a single grain of anything like testimony upon which the slightest presumption even can be founded. I give full credit to all that is sworn by the British officers, though not exactly corroborated—

Affidavits taken before Sir Elijah Impey.

14 MAY 1794. certainly from failure of memory—by the parol testimony at your Lordships' bar; but I will give full credit to it; and the amount of the whole is, that there were a great number of foolish and idle rumours respecting both the Wazir himself and Saadat Ali, all of which, certainly, with respect to the Nawab and Saadat Ali, turned out to be perfectly groundless and ill founded.

Idle rumours respecting the Wazir and Saadat Ali.

Alleged disaffection of the Begum.

I will now come to that part of the learned Counsel's argument in which he states the extent of the report respecting the infidelity or supposed disaffection of the Begum. And the learned Counsel states the number of persons who had given evidence at your Lordships' bar, and whose testimony was taken in India, with respect to the fact of their having heard the report of the insurrection or disaffection of the Begums. And the learned Counsel says, it is very extraordinary to consider the number of persons who must have been engaged in this conspiracy: I having contended and do contend that the whole was a plot—a conspiracy—on the part of Mr. Hastings, Mr. Middleton, Sir Elijah Impey and Colonel Hannay, to bring this accusation, for the purpose I have stated and proved, against the Begums. The Counsel argue it in this manner:—then, if this is a plot and a conspiracy, here is Mr. Wheler, Mr. Macpherson, Colonel Popham, Captain this and Lieutenant so and so, and all the persons, amounting in all, I think, to forty-seven, who, he says, must have been parties in this conspiracy.

The result of a conspiracy on the part of Mr. Hastings and others.

Argument from the number of persons implicated.

Its invalidity.

My Lords, this is the most singular mode of arguing that ever was attempted in any court of justice. Our accusation is this—that Mr. Hastings, having a foul purpose to answer, did plot and conspire with certain persons to accuse the Begums of treason, in order that he might have a pretence to confiscate their treasures. The learned gentleman's argument is, to bring as proof of the existence of the treason the success of the imposition which charged them with that treason! Why, has the learned gentleman never heard of persons being convicted of crimes in consequence of a conspiracy, with a general prevailing belief, at the time, that they were guilty, till afterwards facts have come out to prove the contrary? The learned gentleman must have heard of numberless instances which I could refer him to in illustration of that. But if there is positive proof brought to you, and we let you, as it were, into the closet where you hear these people conspiring, and settling and agreeing that they will bring this accusation against the Begums—if we

bring before your Lordships, under their very hands, confession that they were not in possession of any proof and had not even a suspicion that they really were guilty, but that they were waiting for opportunities to charge them with the guilt—can there be anything on earth so preposterous as to bring us the number of persons who are the dupes of this imposition, as positive proof that the imposture never existed? That is the fair state of the argument. For instance, in the case of Mr. Wheler and Mr. Macpherson, they believed what? What they signed their names to, I suppose, in the account they sent to the Directors. What was that account? That the Begums were suspected by Mr. Hastings, and therefore he thought it proper to resume their jagirs; that, upon the first attempt to resume their jagirs, they raised a second rebellion and opposed the Company's troops, making a new insurrection; that Mr. Hastings, having intelligence of this second rebellion, sends a body of troops, and afterwards, in concert with the Nawab, in order to punish them for it, confiscates their treasures. This is the account sent home;—sent by whom? By Sir John Macpherson, Mr. Wheler, and by Mr. Hastings himself! Why is this a proof that the fact was so? Have we not direct evidence upon your Lordships' table—the evidence of Sir Elijah Impey, of Mr. Middleton himself, of every one of their witnesses—that that account was totally false in every particular?

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Falsehood of of the account furnished by Sir John Macpherson, Mr. Wheler and Mr. Hastings.

My Lords, Sir Elijah Impey is examined at your Lordships' bar upon a letter signed by Mr. Hastings, Mr. Wheler and Mr. Macpherson: it is in page 1638 of the printed Evidence. The account is this;—he states the just grounds of suspicion which had been given to the Nawab by the Begums and other principal jagirdars in his country, by the symptoms of disaffection and so on which they had offered. He then says—this letter, I should tell your Lordships, is dated in February 1782—he says:—

Examination of Sir Elijah Impey.

"On the first attempt made by the Nabob to carry this plan into execution against the Begum, she determined to resist his authority, and raised a revolt by means of her eunuchs, Jewar Ali Khan and Behar Ali Khan, who had collected a force of about five thousand men in order to set the Nabob at defiance."

Now mind:—

"Notice of this second insurrection having been transmitted by the Resident without loss of time to the Governor General at Benares, he immediately ordered a large detachment to march from Caunpore, and the Nabob resolved to go in person to Fyzabad. On his arrival there, by

14 May 1794. the assistance of our troops he took possession of the kella, and the eunuchs, seeing it would be in vain to make a stand when superior forces were expected, surrendered themselves prisoners to the Nabob, and their followers dispersed."

Now mind, my Lords :—

"In order to punish the Begum for this daring ill conduct, and to put it out of her power to apply the treasures which she had amassed to the purpose of raising further commotion, the Nabob resolved to seize her wealth, which by the Mahomedan laws he was entitled to as an inheritance from his father, who in the latter years of his life had committed his treasury wholly to her charge."

This is signed—"Warren Hastings, Edward Wheler, John Macpherson." Then the witness—and this your Lordships will remember is Sir Elijah Impey—was asked "whether this account, of your own certain knowledge, is not wholly false?" He says :—

"I know this, that the reason assigned to me for seizing the treasures was the rebellion of the Begums. Whether any other causes mixed in Mr. Hastings' mind I cannot tell, but he did not communicate more to me." "Did you not carry Mr. Hastings' pleasure respecting the seizing of these treasures, in November, 1782, to Lucknow?"—"I certainly did." "Then could anything that happened in January have been the reason for the determination of Mr. Hastings, which you carried to Lucknow in November?"—"No; certainly not."

In another place you will find proof upon proof of the whole manner in which this conspiracy was conducted.

The Council imposed upon by Mr. Hastings.

Here you have an instance of the Council having been completely imposed upon. They could never have signed wilfully a falsehood. Mr. Wheler and Mr. Macpherson must have believed the statement made by Mr. Hastings, namely, that he had no charge against her for disaffection or rebellion previous to the attempt to resume her jagirs; which is stated in this very letter to have been a measure which ought not to have been excepted to by her, because, being uncharged and unaccused, a full equivalent was provided for her; that, notwithstanding this equivalent, she endeavoured to levy war and create a second rebellion;—

"And then," says Mr. Hastings, "in order to punish her for that ill conduct, the Nawab and I resolved to seize her treasures."

They believe it. But is their belief of this fact a proof that the fact was true? Is it anything more than a proof that the imposture and imposition were successful? So it is throughout the whole of this business. And, if I was to go into the whole of the evidence again, the Counsel would draw me into this situation—that I should be only making the same speech I made before, and be reading over and

over again all the evidence by which I did prove, in a manner which admits not of a doubt, the existence of this conspiracy, and the absolute innocence of the Begums. 14 MAY 1794.

The witness is, in another place, asked :—

Subject of Sir Elijah Impey's examination resumed.

" What do you mean bythis passage in a letter dated the 1st of December, 1781, from Chunargur :—' What we talked of concerning the Begums he highly approves and would have himself advised. He wishes it to be done immediately. I need not mention the necessity of taking care that the money be applied to the Company's use.'—Do you remember this passage? "—" I do." "What was the object of it?"—"The object of that passage I take to be the seizing the treasures of the Begums." " Did you not understand that, when the Nabob consented to the seizing of the treasure, it was as an alternative in lieu of seizing the jaghires?"—" I have not the least recollection of such an alternative." " Was it upon account of the supposed rebellion of the Begums that the treasures were to be seized?"—"I understood so." " When did you hear of any attempt made to resume the jaghires?"—I cannot ascertain the dates and times : I have no memorandum concerning it." " Do you remember this passage in a letter from Mr. Middleton to you, dated Lucknow, the 19th of December, 1781 :—' I think the opposition the Begum has given to the measure of resuming the jaghire'—this was before the resuming the jagirs was effected, when it was expected she would make opposition—' which, as far as it concerns her, bears not the shadow of exception, as she is to receive thevalue in ready money, will be a full justification of the further demands his Excellency has to make upon her.'—Do you know anything of that passage?"—" I believe there is such a passage in a letter from Mr. Middleton to me." " Do you not see it is here admitted that the ground of seizing the treasures was the supposed resistance to giving up the jaghires when she was to be no sufferer by it, and there was no mention of a rebellion?"—" In the passage read there is certainly no mention of any rebellion, and from that passage it would certainly so appear; but that is Mr. Middleton's sense and not mine." " Then did you understand that Mr. Middleton was ignorant of the rebellion when he was at Lucknow?"—" I apprehend not, because Mr. Middleton had mentioned the rebellion to me; but I apprehend by this Mr. Middleton was pointing out two causes for seizing the treasures—a cause in addition to the rebellion." " Whether you did think the rebellion a sufficient justification by itself for seizing the treasures, without any second cause?"—" I did not think the second cause had anything to do with it: I thought only of the rebellion." " Did you, in point of fact, know there had been no attempt to resume the jaghires, and consequently no resistance to it, on the 19th of December?"—" I know nothing but what I have received by information from Mr. Middleton. I thought his letters contained the truth, and that there had been an attempt to resume the jaghires. I now learn it for the first time."

Now, my Lords, in another letter, in page 637 of the printed Minutes—this is the parol evidence of Sir Elijah Impey—he is examined to another passage. Mr. Middleton says to him :—

" ' Do not, my dear Sir Elijah Impey, suffer this delay to be urged or considered as an imputation of blame upon me. I entered on the business

14 May 1794. the very day after you left me, and went so far as to look upon the matter as finally agreed upon; the actual execution only suspended until I could receive either your's or the Governor's sentiments upon the further proposal,'—which was the seizure of the treasury,—'which is certainly of far greater consequence than the resumption of the jaghires, as it will do at one stroke, if we are not all grossly mistaken, what the jaghires will be at least two years in doing.'—What did you understand was to be done *at one stroke?*"—"I understood that to be the seizing of the treasures of the Begums; and Mr. Middleton represents that it would raise a greater sum:"—He, Sir Elijah Impey, having himself carried this proposition and this order in November to Mr. Middleton—"Did you not carry Mr. Hastings' pleasure respecting the seizure of the treasures, in November, 1782, to Lucknow?"—"I certainly did."

In another place, it appears that Sir Elijah Impey, in his answer to Mr. Middleton, says, that—

"If the Begum does resist the resumption of the jaghires,"—no accusation whatever having been then brought against her—"then"—he says—"I think our friend" . . . . . *

You afterwards have letter upon letter from Mr. Middleton, acknowledging the time on which he received the first orders to seize the treasure. You have a statement from him of the situation of the Nawab's mind; of the extreme reluctance with which he came into the measure; of his refusing absolutely to issue his parwanas to resume the jagirs, so that Mr. Middleton says, he issued his parwanas in despite of him. At last, there is a letter which states, that the Nawab, sooner than have it appear not to be his own act and his authority, consents that it shall appear his own act, though it is, in fact, an act of compulsion. I should really be fatiguing your Lordships, and going over precisely the same ground as I troubled your Lordships upon on a former occasion, if I were to trouble your Lordships with the whole of the evidence upon this case—with the private correspondence between Sir Elijah Impey, Mr Hastings and Mr. Middleton. But in that private correspondence does lie the real gist and point of the whole of this foul mystery; and all the other letters which were written by the Nawab or Mr. Middleton, after you have detected the manner in which these letters were suborned, ought to go for nothing, and your Lordships should blot them out of your recollection.

Reluctance of the Nawab to act against the Begums.

I do not know how to meet the Counsel upon this subject. If this private correspondence had never been produced, I confess, I should have had a strong suspicion that the

The private correspondence conclusive as to the innocence of the Begums.

* The letter quoted from has not been found.

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Begums must have been innocent, and the accusation against them the effect of a conspiracy and plot, but could not have stood in this place pledged to bring the guilt home to Mr. Hastings. I should have thought, in the first place, that, from the extreme improbability of their making such an attempt, from the impossibility of succeeding in it, from the notorious fact of their great dependence upon the British Government for security against the ill will of the Nawab's ministers, it was a degree of infatuation which could not easily be suspected of them. I should have taken for granted, when I looked into what they call a mass of legal evidence, which I found nothing but a collection of trash—of rumours—when I found that called perfectly legal evidence which contained nothing like fact or proof—I should have thought that they showed great weakness in their case, when they produced nothing but such evidence. When I found also that, by the admission of Mr. Hastings himself, he was in such a situation that his character was destroyed and the affairs of his master ruined—but certainly his own ruin involved in it, unless somewhere or other he procured treasure to this amount—I should have thought that a suspicious circumstance; and upon the whole should found a strong impression—if anything short of absolute conviction—that the Begums were innocent, and that this was a plot and conspiracy of Mr. Hastings: but I could have gone no further. But we come and bring proof which the Counsel have endeavoured to slip from in every instance, but which they have never once dared or attempted to grapple with;—I mean, the private correspondence which was afterwards providentially produced by Mr. Hastings, when Mr. Hastings returned to Calcutta—when he endeavoured to destroy and ruin Mr. Middleton—when his anger outwent his discretion—and when his revenge turned King's evidence, as it were, against corruption. Then, in a happy providential hour for the punishment of guilt, Mr. Hastings produces this private correspondence. Look at that correspondence, and, I say, the case is proved; unless the Counsel are able to show that they are forgeries—that the letter was not written. Because, what is the story which is there told? It is a complete admission that, upon the 19th of September, when Mr. Hastings signed the treaty of Chunar, though he says he had suspicions respecting the Begums, yet that he had no proof or demonstration upon the subject.

Its opportune production by Mr. Hastings.

Abstract of the correspondence.

14 MAY 1794. You afterwards find Sir Elijah Impey join with him, after his failure in seizing the treasures at Bidjey Gur. You see Sir Elijah Impey's description of him—that he seemed in a desperate situation; that he had but two resources—that of Benares and that of Oude; that of Benares had failed;—that he dare not return without the great object of his journey. Then he found Sir Elijah Impey, the Chief Justice, going upon that scandalous errand to Lucknow, in order to collect evidence against the Begums; their destruction and the seizure of their property having been previously determined upon; and Sir Elijah Impey bearing in his pocket the warrant for that seizure to Mr. Middleton.

You find in these private letters that Sir Elijah Impey is not stated to have a direct order or commission from Mr. Hastings, but that he expects that Mr. Middleton should return the proposition to him in the shape and form of a proposition from the Nawab. You find the correspondence upon this subject between Mr. Middleton and Sir Elijah Impey. He states in this familiar correspondence the agonies that he has felt himself throughout this business; the difficulty he has had to persuade the Nawab to come into it; the unconquerable reluctance the Nawab has shown. He states that the desperate situation this has brought the Nawab to is such that his health was wasted and impaired; that this is a direct compulsion upon the Nawab, and, as far as accusation of treason on the part of the Begums, an imposition on the public in general.

Accomplishment of Mr. Hastings' design.

Your Lordships find at last the event is accomplished; that the Nawab is dragged to plunder his mother; that the object of gaining the treasure is obtained. And, when all that is complete, Mr. Hastings returns to Calcutta; and then he signs with his colleagues the letter I have just read, falsifying the whole of the fact; not daring to tell the Directors even that the Begums had any hand in the rebellion of Cheyt Sing, or any hand in the insurrections in Baraitch or Goruckpore, he says simply, that it was a general measure, salutary to the province of Oude, that all the jagirs should be resumed; the Begums were not to suffer anything by this measure, because they were to have an equivalent secured to them; they took arms, encouraged other jagirdars to resist; and then, in order to punish them, he encouraged the Nawab to seize their treasures.

His cautious announcement to the Directors.

Fallacy of arguing from

When you hear the secret whispers of these conspirators,

and have the admission under their hands that they never had the least ground of accusation, but that they fabricated the charge as well as encouraged the plunder, it is something farcical and idle in the Counsel afterwards to heap upon your Lordships' Minutes, as they have done, extracts of an ostensible letter from Mr. Middleton, saying—the Nawab proposes to seize his mother's treasures. The private letter says before—Sir Elijah Impey brings you Mr. Hastings' pleasure that you should desire the Nawab to write such a letter you afterwards find the Nawab writing—that the treasure was unjustly held from him. In the preceding private letter he says:—

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The public correspondence of the Nawab and Mr. Middleton.

"I have with great difficulty prevailed upon the Nabob to write such a letter to Mr. Hastings."

When you are detecting and tracing this through every instance, I say, it does not show respect in the Counsel to have wasted your Lordships' time in commenting upon the letter in the public correspondence of the Nawab and Mr. Middleton, when the real gist upon which the whole turns is contained in the private correspondence.

Complete success of Mr. Hastings.

Instead of disputing with them that a number of people did believe this impostor; that all the officers who had given the testimony have really somewhere or other heard that the Begum had justly forfeited the protection of this Government; I admit—and admit it as aggravation of the guilt of Mr. Hastings—what the parties charge! I say that he was as successful in his calumny against these princesses as in his plunder and oppression; that he deprived them, not of their treasure only, but of their good name; that he took from them "the immediate jewel of their soul," as the very means and instrument to rob them of that which he certainly did not consider as "trash!" Therefore, instead of flying from or evading this part of the argument upon which the Counsel laid so much stress, I admit it in its fullest force, and contend that, instead of extenuation, it is an aggravation of the guilt of their client.

Having stated very shortly—more from memory than from the paper which I have under my eye, but I presume it must be in your Lordships' recollection—the circumstances with respect to the plot itself, and the effect it produced of something like a general belief—if they will have it—that the Begums merited their fate, I will shortly allude to what the Counsel have introduced with a considerable degree of

14 MAY 1794. parade, namely, the actual circumstances of the Begums' guilt. These were stated formally in three heads; namely, that they principally encouraged the disturbances in Baraitch and Goruckpore; that they gave actual assistance to Cheyt Sing; and that they excited the jagirdars to insurrection, in order to oppose the resumption of the jagirs. Fortunately, my trouble upon this occasion, and your Lordships', is shortened by one of these charges having been completely abandoned, though stated and solemnly signed by Mr. Hastings—that they principally excited the jagirdars to resistance; because no attempt has been made to disprove what we fully established, namely, that resistance to the resumption of the jagirs there never was any. Therefore it is confined to the other two circumstances.

Specific charges against the Begums.

Abandonment of the charge of exciting the jagirdars to resistance.

Disturbances in Baraitch and Goruckpore.

The learned Counsel says, with regard to the disturbances in Baraitch and Goruckpore, that they admit they have not attempted to disprove what we have affirmed to be the causes of these disturbances, namely, that they were the consequences of British oppression and rapacity, exercised in a degree beyond anything that, I believe, ever has disgraced human nature before. We have shown to your Lordships, and traced the origin and progress of, all these oppressions and all these disturbances. We have shown you, and [they have] admitted, the calamity of one year. We have marked the progress of a Hannay the next year—more fell than famine and war joined. We have shown the abhorrence and detestation in which he was held by all the country: we have shown the abhorrence in which the Nawab held him.

Caused by the oppression and rapacity of the British.

We have shown the admission of Mr. Hastings himself upon that subject. We have shown that, when Colonel Hannay had attacked some of these poor wretches in the the province where they lived, their abhorrence and detestation of him was such, that, while they were bleeding upon the ground, they refused life and quarter from hands they detested so much; that afterwards, when Major Naylor succeeded and used some little kindness to these people, they even brought him food in the night. We traced all the consequences of Salim Sing, Futteh Shah, Pertipal Sing, etc.,—that they all came to rescue their zamindar from the hand of oppression or to revenge former injuries. These facts the Counsel have not attempted to disprove. But then come the Counsel and say,—"We admit these causes might exist; but it does not follow that there might not have been

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a co-existing cause with them: and might not the exertions of the Begum have operated with these causes to produce the effect?"

I admit that, when I state the existence of one cause, it does not exclude the co-existence of another cause which might have produced the same effect; but if I state a cause fully adequate to produce a certain effect, and which must of necessity have produced that effect, then it is incumbent upon the Counsel not to take any evidence from the existence of that effect to prove the existence of their cause: it behoves them either to disprove the existence of the cause I state, which they have not attempted to do, or to prove the existence of their own cause, which they have attempted, but in which attempt they have totally failed.

Assistance furnished to Cheyt Sing.

Now, with regard to the assistance given to Cheyt Sing; much stress is laid by the Counsel upon a circumstance that I did not at the time think deserved much weight—I mean, the supposition that a certain number of horse and foot had marched from Fyzabad to the assistance of Cheyt Sing. The Counsel lay particular stress upon a circumstance that is come out since by parol evidence at your Lordships' bar, namely, that there were some wounded najibs taken prisoners in the battle of Pateeta, and that they confessed that they were sent from Fyzabad. The evidence of one is, that they were there but two days and had received two wounds —it rises a little afterwards—that they had received two rupees. This facetious wounded najib says, he had been there two days; he had received two wounds, and had got but two rupees for them.

Testimony of the wounded najibs.

How did they prove that they were sent there by the Begums? What is their proof upon the subject? I believe every word and syllable that these respectable officers say—namely, that they did hear that rumour, and that this wounded najib gave this account of himself. But it is to be observed, in the first place, and it is quoted and stress is laid upon it by the Counsel who summed up the character which Mr. Hastings gives of the situation of the Nawab himself—that the Nawab, though he believes him inclined to the English Government, yet was surrounded by persons who had his power entirely in their hands, and who were actuated by the utmost hate for the English nation. There is, throughout the whole of this evidence, every ground and reason to suspect that this

14 MAY 1794. description of Mr. Hastings is just and accurate, and that the persons principally surrounding the Nawab, and who could make use of his power, did wish, at the first breaking out of the insurrection of Cheyt Sing, to have employed that power in a manner hostile to the English. Accordingly, we find in an intercepted paper—to which, however, Mr. Hastings gives considerable authority—an account of Cheyt Sing's force, signed by the second in command—we find it is there stated that 1,000 najibs came from Lucknow. Mr. Hastings' comment upon that is, that it is a palpable mistake—that it means Fyzabad; and afterwards, in the course of the evidence of these wounded najibs, his Counsel argue that it must have been a mistake. But at what time was this evidence respecting the wounded najibs given, and when could it come to the ear of Mr. Hastings? It does not appear from Colonel Popham, or any other that conversed with them, that they had ever communicated the circumstance to Mr. Hastings. If it was not communicated to him, it was not a fact upon which he could have acted in any proceeding against the Begums. If it was communicated to him, then it is a fact he did not believe; because subsequent to that communication it is that Mr. Hastings gives the most solemn authenticity to this paper, which states that these najibs came from Lucknow, and not from Fyzabad. He does this with the utmost solemnity, and gives every authority in referring to the paper, which he could not have given, if this circumstance of the Najibs had come to his recollection, without certifying that that must have been a mistake. But this testimony respecting the wounded najib is the only scrap of evidence offered to be produced by the learned Counsel.

Evidence of their having come from Lucknow.

The affair at Tanda.

The next circumstance they lay considerable stress upon is the affair of Captain Gordon. And, to my astonishment, I now find that this circumstance, which I conceived to be the most decisive proof, and which I so argued, of the Begums' innocence, and of the foul conspiracy which had been commenced against them, has been found out by the Counsel to make strongly against the Begums and much in favour of Mr. Hastings! What is the fact? The Begum is charged, not only with giving actually assistance to Cheyt Sing, but with preventing a British officer from bringing his force to join Colonel Hannay, and by that means leaving Colonel Hannay in a considerable degree of peril. The fact is proved

to be that Captain Gordon marches to a river, the fort on the opposite side being under the command of a person named Shumshire Khan, connected with the Begum's eunuch. There then comes an extraordinary circumstance. Captain Gordon, who was not then in the Begum's country, but had been assisted by the country people through the whole of his march, is desirous to pass over, and is not very readily accommodated with a boat in order that he might pass over into the Begum's territories. 14 MAY 1794.

There is this remarkable circumstance attending the transaction:—it is stated that these country people detested the English; and the Counsel, all through their speeches, choose to assume that they were set on by the Begums, though not in their territories; that his detachment desert and leave him with only nine or ten people; that then the country people, who before were more than a match for him, leave him, and he is carried over in safety to Tanda and placed under the protection of Shumshire Khan.

Letter of thanks addressed to the Begum by Capt. Gordon and Col. Hannay.

Now we produce—as all our material evidence has consisted in papers which have accidentally come to light—we produce a letter of thanks from Captain Gordon and Colonel Hannay addressed to the Begum, who, the moment she hears of their situation, sends an escort to them, and brings Captain Gordon up to Fyzabad, and afterwards places him in safety with Colonel Hannay. He writes a letter full of gratitude, confessing that he owes his life entirely to the Begum. Captain Gordon says, in terms of glowing gratitude—"that their safety and life are entirely the gift of her Highness."

Culpable suppression of this circumstance.

Your Lordships are to observe that these letters were for a considerable time suppressed. You are to observe this most remarkable and strikingly suspicious circumstance—that, when Sir Elijah Impey went to Lucknow, in order to take depositions upon which afterwards charge and proof were to be founded against the Begums, in swearing Mr. Middleton, who knew the fact of this transaction of the Begum's having rescued and saved Captain Gordon—in swearing Colonel Hannay—in swearing Captain Gordon himself—they all three, bound as they were to swear and tell the whole truth, swear to the circumstance of the delay of Behar Ali Khan's adopted son-in-law, Shumshire Khan, in sending over the boat for the rescue of Captain Gordon: they all state that as a suspicious circumstance, and they all three suppress the fact of the Begum having saved their

14 MAY 1794. lives, and of their having returned their thanks in this letter of gratitude to her.

Mutilation of Mr. Middleton's books of correspondence.

Does the matter rest there? When Mr. Middleton was examined upon the subject at your bar, here, I am sure your Lordships recollect that most disgraceful transaction, which ought indeed to have confounded and set aside, and did, I believe, for ever dispose of all credit with respect to that witness—that, when his books of correspondence were produced at your bar, I showed to your Lordships that, in the very place and very time when Major Gilpin states that he afterwards sent down these proofs of the Begum's innocence to Mr. Middleton at Lucknow—I proved to your Lordships that they had been upon his book and were torn out. Your Lordships—some of you—examined the threads of the book, compared the dates, numbered the pages. I could have shown afterwards and proved, if it had been necessary, that part of the paper which followed that is a paper not of Indian manufacture, and could not have existed at the time Mr. Middleton states the subsequent proof to have arisen. But we did prove a letter to be received at the time Mr. Middleton must have received this letter from Major Gilpin; that these papers were torn out, which evidently, upon the face of them, contained copies of this letter. We also proved in his book, from the copies of the letter sent, that there were a similar number of leaves torn out.

Lord Kenyon.—Refer to the page on the Minutes.

Mr. Sheridan.—It is in page 746 of the Minutes. There is an examination:—

> "Look at those loose leaves, and say when those loose leaves were put into that book, when they were copied."—"Those were certainly copied at Calcutta; I know it from the handwriting of the letters." "Do you know when they were copied?—No; I cannot say when." "Do you know when they were put into the book?"—"No; I do not indeed."

This is a part of the evidence which I very seriously recommend to your Lordships' attention. It is in pages 746 and 747 of your Minutes.

His knowledge of the aid rendered by the Begum.

But the suspicious circumstances of this transaction do not rest here. We examined Mr. Middleton further on the subject. He admits that he had knowledge himself of the transaction at the time. And here the learned Counsel have endeavoured to give a motive for their having suppressed this letter, upon which, I find, the Counsel in their answer have laid considerable stress.

My Lords, the learned Counsel have quoted the letters

of Colonel Hannay and Captain Gordon, as in themselves proof that they could not have believed the Begum sincerely well affected to us; and the reason they give is, that they say, if you advert to these letters you will find that they are not written in the style in which a British officer would write to or address any person of the Begum's rank. He even says, they are written with a humility and in a style which he seems to think was beneath Colonel Hannay or Captain Gordon to use, in addressing themselves to the mother of the reigning prince. Now, that they can infer an argument that, a person whose life was just saved by an act of bounty and humanity of a person of character, sex and rank—the Princess of Oude—there was something [so] unbecoming a British officer to address her with any degree of honour, any expressions of gratitude, that that was internal evidence that it must be the effect of fear and not grateful feeling towards the Begum, is an argument that, I think, does not do much respect to the feeling or sensibility of the learned gentleman who has used it. 14 May 1794.

They have endeavoured to establish the fact, that, at the time the Begum did this act of benevolence with respect to Captain Gordon, she could not have had a disinterested motive, but that it was at a time, in point of fact, when the British affairs had taken a favourable turn, that she tried to wipe off former imputation by this act of good will. I am astonished the Counsel can have had the hardiness to resort to this kind of argument. At first, it was on account of the letter being undated; but we did prove it a dated letter—that it was on the 7th of April; and we established upon the Minutes the most unanswerable testimony that this was not a period when a favourable turn in Mr. Hastings' situation had taken place; that it was not when a rumour of such a turn had taken place at Oude; but that it was at a time when the rumour of the danger of his situation was even exaggerated; that it was at a time when Major Macdonald states to Mr. Middleton, whose letter was subsequent, that their situation was so desperate and their suspicion so strong even of the Nawab himself, that he thinks that he and his friend Middleton—whom he called "dear Nat." upon that occasion—would never meet again upon this earth;—that it was at this moment of the extremest danger and distress of Mr. Hastings in these provinces that they do this generous act, which is attempted now to be turned against them, and is argued gravely by the Counsel as a proof that they had ill

Imputation of interested motive to the Begum.

14 MAY 1794. will to this country, and is denied by him to be any negative against the imputations alleged against their conduct.

There are no other actual circumstances whatever, alleged or pretended by the learned Counsel as any overt acts or any facts done, beyond the two which I have stated, by the Begums; I mean, the imputation of their having excited or assisted the disturbances in Baraitch and Goruckpore, and of their having sent some actual aid to Cheyt Sing in the persons of these najibs. And it is pretty remarkable, the manner in which the learned Counsel have proved that the Begums had najibs. For they thought it a part of their case to show the probability of these najibs having come from Fyzabad and not Lucknow, to prove that the Begums had najibs in their service. And the instance they take to prove it is, her acknowledgment and Captain Gordon's confession that she sent a party of najibs to rescue him from the peril he conceived himself to be in at Tanda. So that this circumstance of her interposing to save a British officer is the instance they bring to prove her persecution of them; and [they infer] the probability of her having najibs, because by najibs she saved Captain Gordon and restored him to Colonel Hannay! But I say that anything like a fact or overt act beyond this the Counsel have not attempted even to state.

Extraordinary reference to Capt. Gordon's letter, on the part of Counsel.

Then your Lordships are to put the testimony—give it what weight you will—of these wounded najibs, and the circumstance of Captain Gordon's and Mr. Middleton's idea—that when she saved his life she did it upon a suspicion that a favourable turn had been taken in the affairs of Mr. Hastings—you are to put whatever inferences can arise from these two circumstances against the whole weight and mass of evidence which we have brought before you upon this occasion—against the original utter improbability of their having ever attempted any such design—against the actual impossibility of their having ever accomplished it—against the fact, proved again and again, that the English were their only protectors, and that they would have destroyed themselves if they could have destroyed the English—against the positive fact of having saved and not attempted to destroy Captain Gordon—against the suspicious circumstance that all those who swore respecting that transaction suppressed the main circumstance of it—against the fact of the record of it having been torn from Mr. Middleton's book;—against all those circumstances together you are to put—and I leave

it in your Lordships' breasts to give what weight to it you can—the inference the Counsel have attempted to draw from the testimony of these two wounded najibs and the conduct of Shumshire Khan at Tanda. 14 MAY 1794.

I believe I said wrong when I said they have not attempted to state any other thing in the shape of a fact. I think they have attempted to lay some stress upon a certain intercepted letter; but I really did not think it worth while to trouble your Lordships upon that head—though I have had it suggested since—because the Counsel did himself completely abandon every inference from that intercepted letter. It is a letter of Captain Williams, found in an old trunk, without any direction or any signature. We examined Mr. Halhed, a very intelligent gentleman, and Mr. Brome had been examined before, to know if they could draw any inference from the letter or make any guess whom it was addressed to, or from whom it came; and they candidly acknowledged that they could form no surmise from whom it came, or whom it was addressed to. Intercepted letter.

Then the only argument to be drawn from it is from the purport of it. And I think it clearly shows it could not have come from the Begums or any agent of the Begums, and could not be addressed to any person as an encouragement for him to come forward and assist Cheyt Sing's rebellion. But, on the contrary, the internal evidence of the letter goes to show that it must have been written by some power friendly to the English—the Nawab, who had in his pay sepoys. There are other circumstances which describe the situation generally of the zamindars who are attached to the Nawab and the English, namely, that the person to whom it was addressed should have his sepoys in a state of mutiny; and by calling them to the presence it is clear that that meant the court of the Nawab—that it could not apply to the court of the Begums at Fyzabad. It was certainly one of those summonses which it is stated upon the evidence that the Nawab issued, when Captain Gordon was near Fyzabad and mustered his forces from all parts, before he attempted to march towards Mr. Hastings at Chunar. I will say no more upon that letter, because, if anything is to be inferred from that, it makes against the cause it is brought to support; and more so, because the Counsel had the candour at last to say, they did not attempt to draw any inference from it and did not place the least reliance upon it. Internal evidence of its having come from the Nawab.

I cannot find any circumstance much dwelt upon by the

14 May 1794. Counsel as a proof of the guilt of the Begums, beyond what I have stated, except in one very extraordinary circumstance and mode of argument indeed. The learned Counsel state the violent words and expressions used by the Begum, at the time when Mr. Middleton first announced to her the determination of her son, abetted by Mr. Hastings, to seize her treasures. I was astonished at the unmanliness, almost, I may say, of the learned Counsel, to lay so much stress upon any such matter. They describe the words which she uses when she says—"if you seize my jagirs extremity shall be the consequence;"—"if I am driven from the country," she says, "God grant that every soul in it may perish!" When she found she was deceived and defrauded by both Mr. Middleton and Mr. Hastings, she says—"infamy upon you!" They quote and lay stress for a considerable length of time upon all those passages and all those expressions. They argue upon them, and press them upon your Lordships' attention, as proof of the rebellious, inflammatory, diabolical, temper and nature of this woman, which made her likely to attempt such a thing as the extirpation of the English, and rendered her an unfit object either of the favour or forbearance of Mr. Hastings.

Violent language used by the Begum.

I have read their argument upon the subject and the stress they laid upon it with astonishment. It is not an imputation of guilt which the Counsel attempt to fix upon those persons, circumstanced as they were. It is not a proof of an ill, or a bad, or a depraved nature, that a woman is capable of a strong degree of anger. My Lords, a lofty spirit may be seated in the gentlest bosom and accompanied by the gentlest nature: I had almost said that a woman ought to be a passionate creature. I do not mean to say that a violent temper is any part of their moral duty; I agree with your Lordships that it is certainly not; but this much I say, that temper and patience, like all other qualities of the mind or improvements of the understanding, are things in themselves artificial, and to be acquired by experience; that patience is the fruit of suffering; that a forbearing temper is to be learned by conversing with injury—by having been in the habit and in the way of insult; that it does suit the nature of a man born to bustle and struggle with difficulty in the world, to meet with injury, to meet with ingratitude, to meet with reproach—that it does suit him to have a forbearing and patient temper; but it is a school in which a woman ought not to be practised. If this was the case in

days of chivalry formerly and days of modern gallantry here, then ought it not to be the case in India? There within their reverenced walls is homage and adoration. It is not surprising then that a person of the Princess of Oude's rank, who never could have been in the way of meeting the slightest degree of insult or of injury, when she was looking towards her protectors—when looking towards Mr. Hastings, the person to whose care she was consigned on the deathbed of her husband—when she said, holding up her hands—"they are attempting on me this injury, though you, the English, are at hand"—when she applied to Mr. Middleton for protection—when she stated the confidence she had in Mr. Hastings, that he was her guide, her counsel, that she looked to him for everything—it is not astonishing that, when she found all her hopes fail, and that they were to be her persecutors and not her protectors—it is not astonishing that, lashed into madness by her wrongs, she might have broken out into most vehement expressions. It is the nature of disappointment, when you find persecution where you expect gratitude, to feel in this manner:—"for it was not an enemy that reproached me; then I could have borne it: neither was it he that hated me that did magnify himself against me; then I would have hid myself from him; but it was thou, a man mine equal, my guide and mine acquaintance. We took sweet counsel together." These were her feelings. She had every right to depend upon the protection of Mr. Hastings: he had professed to be her guide, her counsellor. It was to him she looked for protection against injury; and it is not to be wondered at, if she had been even moved to madness, when she experienced such treatment from such a quarter.

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The natural consequence of the treachery and oppression practised towards her.

Excepting the inference which the Counsel had, as I said before, given so much weight to, I do not find any other material circumstance, throughout the whole of their very able, ingenious and laborious, speeches, that applies really to the point which is more immediately under your Lordships' discussion. But there is one circumstance with which the learned Counsel, whose speech I have been last quoting, has summed up the whole of his arguments and his efforts, which I think still more surprising than any one which I have hitherto alluded to.

My Lords, I was accidentally, I believe, not attending my duty in this House when the learned gentleman came to this part of his speech; and I really exceedingly regret

14 May 1794. my absence, for I should like to have been present. I am sorry that I missed the exhibition of the astonishing power of face which, I think, the learned Counsel must have exhibited, when we come to this part of his speech. For, my Lords, finding himself baffled in every attempt to prove the innocence of Mr. Hastings—finding himself weak and unsupported in every endeavour to fasten guilt upon the Begums—finding himself, with all his ability and ingenuity, compelled to slip away and to pass by, as I stated before to your Lordships, the real pinching part of the question, namely, the whole of that private correspondence which is in itself completely irrefragable—finding himself in this situation, he comes forward in the face of day—he comes forward in the face of this Court—he comes forward in the face of the Commons of England—he comes forward in the face of the people of England—he boldly and courageously offers you a bribe of half a million if you will acquit his client! That is literally what the gentleman has concluded the whole of his argument with!

Argument from the retention of the treasure on the part of Government.

He says;—"Has any one person ever thought of doing that which in the result must be done; namely, to restore all the money that was taken from them, with interest?" He says:—"I am happy to find that the honour of Mr. Hastings and the honour of the nation must stand or fall together." He says, the people of India are mercenary people; they are hunting after [money]; money is their god; that you have a right to say to them, "see what a virtuous and generous disinterested people we are: we pay with impeachment—we punish the individual; we keep the money!" Upon that idea he proceeds to argue, and states his perfect conviction that his client must be acquitted—be the evidence what it may—because, he says:—"I know, neither your Lordships, nor the Commons, nor the Company, nor the people of England, will ever think of refunding the money with interest." "It is impossible," says he: "so, thank God! the honour of Mr. Hastings and the honour of the nation have a common cause here." That is, they make a common cash purse; and he thinks himself completely secure, knowing that the word *refund* has not a very musical sound in the economical ears of a British House of Commons; knowing the Company will not hear of it, he thinks it impossible you can dare to convict him. But, if you do it, it is not in this instance only that you must refund; but, if he confesses more unsuspected and undetected frauds, you must refund the whole; so that he may, in one hour of

prodigal contrition, confess and bankrupt his masters, the Company. This the gentleman thinks an utter impossibility. Therefore he says—"Thank God! my client is completely safe." 14 MAY 1794

Duty of repaymen and reparation.

I answer the gentleman's question:—"Has any one person thought of doing that which in the result must be done—to restore all the money taken from them, with interest?" I answer—"Yes! for one, I have." And I am glad to see the gentleman thinks I am right in the assertion; but I am astonished he should seem to put any surprise in his countenance upon the declaration. Does any person think it were dishonourable of the British nation, if we found this an act of plunder and robbery—the effect of conspiracy—that it was never merited by the Begums—that it would do any discredit to the British nation that they should refund the money? "Will you refund it with interest?" Yes! with interest. I would seek out Cheyt Sing. The gentleman seems to assume that, if Mr. Hastings is acquitted, Cheyt Sing will be a convicted rebel, and that Mr. Hastings is to be called to no account for that transaction. I say that, if Mr. Hastings is condemned upon that Article, it will become the dignity of the British nation to seek him out, in the camp of Madaji Scindia, or wherever he is—it will become their justice, dignity and humanity, to seek him out and make him compensation. So I say with respect to the Begums. I would search out all those miserable victims of rapacity, all those wretched children that were beat back, all those women and children who were proved to be considered by the reigning Nawab to have been the same as his mother, brother and sister; in whatever degraded situation they are, I would search them out through India. I would humiliate the British nation at their feet in atonement, and think the British character more honoured and possessing more dignity in that posture than in the proudest situation in which their oppressor ever placed that country, or himself as representing it! The honourable gentleman therefore, as far as my opinion goes, is answered upon that subject; and I trust that this last desperate attempt to win your Lordships' favour to the prisoner, by offering, as it were, a bribe in the face of the world, will certainly fail.

Delay no bar to liability.

The gentleman says—"will you after such a lapse of time do it?" I regret that so much time has elapsed. The delay of this trial is a thing much, deeply, to be regretted, but not to be argued upon by me now. But

14 MAY 1794. justice is not less a debt for having been delayed. We know that sometimes the judgments and visitations of Providence fall quickly and instantly upon those that have offended; that, when they do, it is an awful and striking example. But, sometimes also, these judgments are long delayed; and perhaps the consequence and the effect of the awfulness of that judgment is rather increased than weakened, when, after long protraction, it at last overtakes the guilty. Such, my Lords, may be the effect of your judgment, which is now looked to upon this great question by all India:—such will be the effect and consequence of that judgment.

Protest against the influence of mercenary motives.

I trust, my Lords, that you will not be either corrupted or intimidated by this last, most indecent and desperate, expedient of the Counsel. He tells us that the people of India love money; that money is their god. The learned Counsel shows that he thinks it is we who are so passionately attached to lucre; that it is we who make money our god;—nay, he comes himself, like the god of money, like Mammon, to tempt us here! He addresses us as Mammon does—that if we will do this foul deed, see what a shining heap of money we shall have! But I trust I speak the sentiments of the Commons and people of England when I may be permitted to reply, in the language of Sir Guyon to Mammon:—

[" 'Certes,' sayd he, 'I n'ill thine offred grace,
Ne to be made so happy doe intend!
Another blis before mine eyes I place,
Another happiness, another end.
To them that list these base regardes I lend;
But I, in armes and in atchievements brave,
Do rather choose my flitting houres to spend,
And to be lord of them that riches have,
Than them to have my selfe, and be their servile slave.' "] *

These I trust will be the feelings of the British Government;—that upon no occasion will they be corrupted from their duty; that they will never be bribed from the integrity of their situation; while they hold this language—which I trust they ever will do—that they will feel as strongly as can be felt in the heart that which is expressed in the language of poetry—that Great Britain and its Government will be—

"Lord of those that riches have,"

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* Faerie Queene, Book ii., Canto vii.

and will deserve and obtain the respect and homage of the world! 14 MAY 1794.

My Lords, I may have omitted a great many circumstances which the Counsel may have laid more stress upon than I think they deserved, but, as they have avoided closing with me upon what I think really the main point of the whole business—the point most worthy of your Lordships' attention and consideration, and upon which the guilt or innocence of Mr. Hastings entirely depends—I mean, the history of the transaction given in that private correspondence—as they have not attempted to invalidate any part of that, I should hold it perfectly nugatory and a waste of your Lordships' time to pursue them further in any of the quotations either of letters or evidence which they have adduced.

The evidence from the private correspondence not impugned by Counsel.

If I have treated any part of this subject with more levity than, perhaps, seemed to belong to it, I confess I have done it under an impression that, through most of their speeches, which I assure your Lordships I have read very carefully, the Counsel themselves could not really mean to be serious. They use such arguments—such repetition of things so palpably detected and so contrary to the evidence before your Lordships—that I almost felt that they themselves could not be in earnest.

Conclusion.

I shall trouble your Lordships no further. I think the case sufficiently clear and proved. The learned Counsel, I hope, will not think, except in the transaction of one learned gentleman, that I meant to treat them in any manner unhandsomely. I am sure they have done their best for their client. They exerted great talents and ability, but the cause was against them. It was a cause which, on this part, called for no exertion and could yield no triumph.

Upon the whole of the case the second Article is now closed. The decision remains with your Lordships. Whatever that decision is, it certainly will be received by me with respectful submission; but I must say that, till that decision is known, I entertain the same opinion with which I entered into this cause, strengthened and confirmed—that an acquittal upon this Article is absolutely impossible.

SPEECH OF THE RT. HON. CHARLES JAMES FOX, MANAGER FOR THE HOUSE OF COMMONS, IN REPLY UPON THE SIXTH, SEVENTH AND FOURTEENTH, ARTICLES OF THE CHARGE, RELATING TO PRESENTS; 20 MAY, 1794.

20 MAY 1794.

MY LORDS,—It is now my duty to offer to your Lordships such observations as appear to me to be necessary upon the evidence which has been brought in defence, upon the evidence which we have brought in reply, and, occasionally, upon the arguments which have been used for the purpose of doing away the inferences of criminality which we conceived to result from the evidence we laid before your Lordships, in the first stage of this prosecution.

Nature of the charges contained in the sixth, seventh and fourteenth, Articles.

It is unnecessary for me to remind your Lordships of the particular nature of these Articles; the evidence upon which I had the honour to sum up to your Lordships some years since, and upon which it is my duty on this day to reply. The three particular Articles to which I refer are the sixth, seventh and fourteenth. They are of a different nature, undoubtedly, from those other Charges which have been opened to your Lordships by different Managers. They are in some points of view of less—possibly, in other points of view of more—importance. With respect to the immediate destructive consequences which they may have had in India, they are in my judgment, I confess, far less important than those two Charges upon which your Lordships have already heard a reply; but, with respect to their indirect consequences—so far as they tend in general to stain the honour of the British name—so far as they tend in general to countenance a system of corruption which may not show itself in one or two criminal acts only, but which may vitiate the whole of our administration in India—in that view, my Lords, these Charges, perhaps, may appear to be of equal, if not even of greater, importance than any of those which are individual acts of criminality or individual acts of oppression.

There is another view, my Lords, also, in which they are of infinite importance; because they go more directly to the

malus animus—because they go more directly to that bad intention and corrupt principle of action with which it is our duty—however harsh that duty may be—on the part of the public and on the part of the Commons of England, to charge the Defendant at your bar. 20 May 1794.

My Lords, the Charge, therefore, going more directly, according to the common and vulgar sense of that word, to the honour and reputation of Mr. Hastings, it is no wonder that himself, in his different defences, and his Counsel in the defence to this Charge at your bar, should have endeavoured by all possible means to pervert and to torture every fact which, upon the face of it, tends to presume criminality against him, and that they should upon such an occasion have taxed their understandings and have taxed their genius for every species of argument, whether directly to the purpose or whether collateral, for every mode of representing the conduct of Mr. Hastings, which, in their judgment, may possibly tend to repel the strong inferences arising from the facts which have been proved at your Lordships' bar. How far they have been successful in these arguments—how far they have been successful in bringing evidence to rebut the evidence brought on our part—it is now your Lordships' business to inquire; and in that inquiry it is my duty to assist your Lordships, according to the best of my ability.

Counsel's manner of dealing with them.

My Lords, these Charges go to a great variety of facts; and, in the nature of the thing, when a great variety of facts are stated some must be more and others less important. I believe, if your Lordships can carry in your memory, or, by referring to any short-hand account of it, can at present be masters of the very able and ingenious speech which was made by the learned Counsel on the other side in the defence upon this subject, you will observe, I have no doubt, that, so far from thinking it his duty, either in point of time or in point of argument, to take up the greatest part of your time or to apply the greatest force of his argument to those points which were of most importance, and to pass over comparatively in a slight manner those which were of less, he has taken a mode directly the reverse. Wise, perhaps, for his difficult situation, he has employed much the greater part of his time upon those points which, whether true or false, are of less importance or less striking with respect to the guilt of the Defendant, and has slurred over as much as possible, and endeavoured to rest your Lordships' attention

20 MAY 1794. as little as possible upon, those which are the most important in the case.

Receipt of presents on the part of Mr. Hastings previously to 1773.

My Lords, the first division of this question is with respect to presents which were taken previous to, and those which were taken subsequent to, the Act of Parliament of 1773. With respect to those previous to 1773, upon which it is first my duty to trouble your Lordships, the Counsel at the bar have spent a great deal of time. They have endeavoured, upon some of them, to state misrepresentations on the part of the Managers. They have supposed that we have omitted giving in evidence matters which, if we had given them in evidence, would have tended, much more than those matters which we have, to elucidate the points in question; and in some instances they suppose us—I do not say, intentionally—to have omitted parts of papers, which if we had produced, a sense directly contrary to that which we put upon them might fairly have been inferred.

The restrictive oath not taken by him.

With respect to the first point, upon which they have spent much time—I mean, the oath which we contended that other Governors had taken, and which Mr. Hastings did not—it was never stated as a substantive charge against Mr. Hastings; but it was stated to your Lordships as a circumstance, in the first instance, that might make your Lordships look with a considerable degree of suspicion upon all the subsequent transactions of Mr. Hastings. This allegation the Counsel on the other side have boldly stated to be unfounded; but, when we come to their evidence with respect to the principal points, *viz.*, Mr. Hastings having taken either the restrictive oath, or any other oath at all, they totally and completely fail; for there is no evidence before your Lordships of Mr. Hastings having taken any oath, excepting what may be collected from that sort of general memory of Mr. Auriol, who speaks much more from what he supposes must have happened than from distinct recollection of what appears upon the records. There does not appear any trace of his having actually taken the oath in question. But so determined are the Counsel on the other side to take arguments at any rate when they make for themselves, and to refuse them when they may make against them, that, though they endeavour by all possible means to invalidate the presumption, which arises from the silence of the records, that Mr. Hastings never took any oath, yet the silence of the records with respect to Sir John Cartier they consider, not only as presumptive, but

as conclusive evidence that he did not take the restrictive oath; thus applying one rule of evidence for the purpose of inquiring whether Mr. Hastings took an oath and what oath he did take, and another rule of evidence to the question whether Sir John Cartier took the restrictive oath, where he took it, and upon what occasion. This is a circumstance, undoubtedly, of so little comparative moment in this general inquiry that I shall trouble your Lordships no further upon it. And I should, perhaps, not have said these few words, if it had not been for the confidence with which the Counsel have announced their hope of falsifying our statement of this business, and if, examining how little they have made out their point upon that circumstance, it had not been one of those circumstances which raised in my mind a great deal of diffidence with respect to the remainder of their defence, and which I wish your Lordships to consider in the same light. 20 MAY 1794.

Appointment of the Munny Begum as successor to Mohammed Reza Khan.

With respect to the material part of the Charge previous to the Act of Parliament, it certainly consists in many distinct points. One is, the conduct of Mr. Hastings upon the removal of Mohammed Reza Khan, and the appointment—as one may say, substantially true, though in the letter the name of the appointment is different—the appointment in his place of the Munny Begum. Upon this much discussion has arisen. We showed to your Lordships that, upon the dismissal of Mohammed Reza Khan, Munny Begum was appointed; that she was an improper person to be appointed; that she had not those qualifications which Mr. Hastings himself stated to be necessary for that situation.

What answer is made to these allegations? The answer made to these allegations is, that the title of the office which was given to Munny Begum was not the same as that given to the office which had been possessed by Mohammed Reza Khan; that Mohammed Reza Khan was called naib subahdar, whereas Munny Begum had another name and title, and that, in point of fact, she was not therefore appointed as a successor to Mohammed Reza Khan; that that disobedience to the Company which we had argued—in not attending to their orders in the point of appointing a successor to Mohammed Reza Khan—did not exist in effect; because Mr. Hastings and the Council openly disobeyed the court of Directors, stating that, instead of appointing a successor to Mohammed Reza Khan, they meant to abolish the office altogether; and

20 MAY 1794. that, therefore, this person was appointed to a different office and an office of a different nature.

It is singular that, in the very minute investigation which the Counsel have chosen to pursue upon this part, so many things should have escaped so very diligent and so very accurate a research, and that these particular circumstances which appear to have escaped the Counsel are those which, upon the first view of the subject, I believe, would naturally strike [the mind]! What is our accusation against Mr. Hastings? That he appointed Munny Begum to an office that, in his opinion—*viz.*, the opinion of Mr. Hastings—required a person of considerable natural endowments and acquirements, and other qualifications, which we state. Why, if the Counsel would have looked to that declaration of Mr. Hastings, it does not apply to the case of a naib subahdar. It is made in a subsequent period, with respect to the successor to this identical Munny Begum in this identical office. Therefore, as far as we have a right to build any presumption upon the ground of Mr. Hastings appointing Munny Begum to an office for which qualifications were requisite which, as we state, she did not possess, we think we are completely in possession of that ground;—not only that it is not taken from us, but it is not attacked by the Counsel or the evidence on the other side, since the whole of the observations of Mr. Hastings, to which I desire your Lordships to advert, do specifically refer to the case of a successor to the Begum, and not to the case of a person succeeding to the office of naib subahdar.

Her unfitness for the office.

Perversion of evidence imputed to the Managers.

My Lords, when I heard the Counsel, upon this business, lay so much stress upon a paper of which we had produced the beginning and the end and left out the intermediate parts, I did not at first rightly understand what they drove at. I thought that I might have forgotten the Charge—that I might have forgotten the evidence. But, upon looking to the Charge and at the evidence, I must with due civility and respect to the Counsel say, that I cannot conceive the drift of such observations, and can consider them as nothing but as idle matter, tending to divert your Lordships from what is your true business—an attention to the substance of this Charge.

The Counsel state that we produce the first words of a letter and afterwards the last paragraph, and read "upon these grounds"—as if it had been our intention to refer the words "upon these grounds" to the first part of the letter we pro-

duced, and to conceal from your Lordships' knowledge what 20 MAY 1794.
those things were which were the antecedent to those relative words "upon these grounds," and upon which Mr. Hastings in that business proceeded. As to any imputation upon us of endeavouring anything fraudulent upon this subject, I am sure that the bare inspection of your Lordships of those papers will, upon the first view of them, acquit us.

My Lords, before I observe upon the particular entries, I Reply.
will only observe upon the very short lines with which they are introduced. You will find in page 987 of the printed Minutes,—

"Read also from the same book, page 207, and the same proceedings, the following extract"—

an extract consisting of about twenty or something more lines, beginning:—"The Committee are fully sensible," and ending,—"to future danger." What do we do? Do we immediately produce another extract without stating where it is; or do we produce the end of the letter as coupled or connected with the former part? No; we immediately say:—

"Read also from the same book, page 210, the following extract."

Now, my Lords, if you can possibly suppose that the gentlemen at this bar or in this box could have had it in their intention or their wish to pass a fraud upon your Lordships—which I hope we are perfectly exempt from [the suspicion of]—I say, if such an opinion could have attached upon us, have you such an opinion of our understandings, or do you suppose we have such an opinion of your Lordships' understandings or attention, that we could possibly desire you to read, in page 207, about twenty lines, and then point out that it was in a page distant but three, namely, in page 210, and that we could suppose it could have happened that the interval between 207 and 210 was an interval of blank paper, and that the words "upon these grounds" must have related to the beginning of the letter and not to intermediate parts between them?

But, however, the matter does not rest here; for, in the passage which we do read, I contend that there is a fair notice of all the matter that is in the intermediate parts. The last words we read in this part were:—

"The appointment, therefore, of a Naib Soubah for such purposes we judge unnecessary, nor is it allowable to suppose that our honourable masters would approve of our putting them to the charge of an annual

20 May 1794. salary of three lacks of rupees to such an officer, merely for the sake of giving *eclat* to the negotiations or authenticating the privileges of their rivals in trade, if the ends of an ostensible minister can be equally answered by other means, that shall not encroach in so great a degree on the public treasure or lessen the consequence of our own administration."

These were some of the reasons which we afterwards have endeavoured, and not only endeavoured, but succeeded in falsifying. But we do not stop there: we read this last line, to which I beg your Lordships' attention:—

"But it is not only unnecessary; it may be liable to much present inconvenience and to future danger."

So, if we had done that which it is impossible that we could either intend to do or which, if we had intended to do it, we could ever have set about in this open manner of stating to you the different pages from which these extracts were taken, what would have been the sense, even upon supposition of that imposition having prevailed? The sense would have been this;—that, when the words were used afterwards "upon these grounds," they would have referred, not only to those grounds of economy, for saving salary, and the other grounds which are mentioned and which we completely falsified, but they would have referred to this last line—

"Not only that it is unnecessary, but it may be liable to much present inconvenience and to future danger."

Then I ask whether that is not now the true interpretation of the words "upon these grounds"—whether the words "upon these grounds" do not refer to the future danger, and whether most of the whole of that intermediate part—which we left out, because it was not at that moment material to our cause—whether the whole of that is not merely a comment upon the word "danger," an elucidation of what sort of danger they point at, an elucidation of the danger which they apprehend; and whether the fair construction of these relative words "upon these grounds" exclusive of the economical grounds which I have stated, does not refer to the danger of such an office? And so this whole imposition with which we are charged amounts to this;—that, instead of stating two pages elucidating the nature of the danger we apprehended from the abolition of the office of naib subahdar, we have stated in a more distinct manner that the danger of the office was the ground upon which Mr. Hastings thought fit to abolish it.

Nature of the omitted passages.

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Why, if the length of time of these proceedings had made—which I am sure it has not—your Lordships, though it may a great part of this audience, forget the nature of this Charge and the points urged in it, from this observation of the Counsel you would take the Charge to be a different thing to what it is. But [supposing] we have charged that Mr. Hastings had abolished the office of naib subahdar when he ought not to have abolished it; that he had abolished it upon reasons of apprehensions of danger which were wholly unfounded, and could not be made out by fair inference and by fair argument; even in that case, I do not know that we are bound to produce Mr. Hastings' argument: but it might have been said fairly, that we had not done the utmost that candour could have suggested, because we had not given the full force to Mr. Hastings' argument upon this subject—because we had stated only the head of it, which was danger, without enlarging upon the particular dangers.

The production of Mr. Hastings' arguments not incumbent upon the Managers.

But that is not the accusation in this part of the Charge. The accusation in this part of the Charge is, that, when he had the orders of the Company to dismiss Mohammed Reza Khan from the office of naib subahdar, he did appoint, not under the title of that office, but virtually that he did appoint the Munny Begum as successor to the power enjoyed by Mohammed Reza Khan; that the appointment was improper in itself; was so stated for the various reasons that result from the evidence in the former stage of the prosecution; and was so improper and unlikely to originate from any pure and proper motive as not only to be a crime in itself, but to induce in your Lordships' minds a presumption of those other subsequent crimes which are alleged in the subsequent part of the evidence.

Specification of the present part of the Charge.

I alluded just now to a minute in evidence which is material to show the nature of this accusation—that it does not apply to the question of the title of the office, but to the propriety of the person to fill it;—and I particularly mention that, of which the Counsel have not taken notice, because they could not take notice of it without confessing all the inferences we drew from it, in page 973 of the printed Minutes, that we brought to show Mr. Hastings' own opinion of the qualifications necessary—for what; for the office of naib subahdar? no! but for the office of guardian to the Nawab.

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"Read from Book 12, already delivered in, the following extract of a consultation, dated, Fort William, the 14th of September 1775, beginning at page 254 of the same book :—

"'At a Council,—present the honourable Warren Hastings, Governor General, President, Lieutenant-General John Clavering, the honourable George Monson, Richard Barwell, Philip Francis, Esqs.

Mr. Hastings' opinion as to the qualifications requisite for the guardian of the Nawab.

"'To the honourable the court of Directors, etc.:

"'You will expect that, in the proceedings against the Begum, the strictest regard will have been paid to her honour, and every scrupulous attention observed which the delicacy of the oriental manners prescribes with respect to her sex, and which her rank and character particularly demand, and that, in the choice of her successor, due consideration has been paid to the requisites for so distinguished a charge—that his rank is such as, at least, may not wound the Nabob's honour or lessen his credit in the estimation of the people, by the magisterial command which the new guardian must exercise over him, with abilities and vigour of mind equal to the support of that authority. And the world will expect that the guardian be especially qualified, by his own acquired endowments, to discharge the duties of that relation in the education of his young pupil, to inspire him with sentiments suitable to the dignity of his birth, and to instruct him in the principles of his religion.'"

My Lords, you will find, therefore, that that which we read as Mr. Hastings' opinion of the qualification for such an office was not upon any supposed confusion, as is intimated by the Counsel, between the two offices of naib subahdar and guardian to the Nawab, but it is the opinion of Mr. Hastings, pronounced specifically upon the office of guardian to the Nawab by name, and applied directly to the question of appointing the successor to Munny Begum, whom, without those requisites and without those qualifications, at the period to which we allude, he did appoint.

Unwarrantable distinction drawn between the offices of guardian and naib subahdar.

There has been, upon this part of the Charge also, a considerable attempt to distinguish, more than the facts will warrant, the two offices of naib subahdar and guardian. Under these circumstances, my Lords, the learned Counsel allude to some evidence, which we gave in page 979 of the printed Minutes, of a letter from Mr. Hastings to Munny Begum, in which he says to the Begum :—

"You are undoubtedly the mistress, to confirm, dismiss and appoint, whomsoever you shall think fit in the services and offices of the nizamut"; that is, in the offices of the Government. "They are accountable to you alone for their conduct."

And then he states her powers to be as extensive as, in point of fact, they were.

Upon this occasion, the Counsel state that your Lordships ought not to look at this only, but to look in the Appendix for the requisition from Munny Begum to which this is an

answer. I beg you will do so; and, if this evidence wanted any additional strength or confirmation, that paper, which your Lordships will find in page 2108 of the printed Minutes, will, I am sure, elucidate this business. It is— 20 May 1794.

Requisition on the part of Munny Begum.

"A paper of requests to which the gentlemen of the Committee are to affix their signatures after perusal, that nobody hereafter may be able to obstruct or oppose them.

"'First, there are several officers, who have accounts with the sircar, who make a stand at the settlement of them, which is the occasion of a great loss to the sircar. Let the gentlemen of the Committee affix their signatures, that no one be permitted to make recommendations in their favour.

"'Second, there are a few servants, of whose situations I have no knowledge and with whom I have no acquaintance, who receive their salaries by the channel and support of each other, which is the cause of a loss. Let the gentlemen of the Committee sign, that no one makes recommendations for their establishment.

"'Third, that the dismission and displacing of the officers and other servants of the sherishta, nizamut and bhaleer, may be under my direction. Whomever I shall know as a well wisher and capable I shall continue and keep established, and those who are ill wishers and incapable I will dismiss and turn from the dependencies of office. Let the gentlemen of the Committee affix their signatures, that no one supports or makes recommendations in their favour.

"'Fourth, the kaus talucs and the fouzdary of the city was of old annexed to the nizamut; it is now separated, which is a reflection and loss of credit to the nizamut:—that they may, as formerly, be put under the offices of the nizamut, and that the malguzary may be made through me, agreeably to the bundobust which has ever been settled and that I may be employed in the transaction of the business thereof. That the gentlemen of the Committee affix their signatures to this.

"'Fifth, that, in case of any person complaining to the Council Adalut or anywhere else against the dependants and servants of the sherishta, nizamut and bhaleer, or any other of the officers of the houschold, that no peons be sent for apprehending them, but the settling and adjusting their affairs may depend upon me, and that the complainant and defendant be sent to me, that no reflection may attend the affairs of the nizamut.'"

Now, without pretending to be conversant much, notwithstanding the long time that I have been employed in this long inquiry, in the Indian language, I do not believe that the Counsel will contend that bhaleer and nizamat are synonymous terms. They will not, I believe, dispute with me that the first of these terms means the household, to which they particularly confine, or endeavour to confine, the power that was given to this lady, but that the nizamat means, in contradiction to the household, what we should, perhaps, better describe by the general words—the powers of government.

Not confined to matters connected with the administration of the household.

But you will observe that she considers it in that light in the strongest way, for she speaks of the faujdary of the city,

20 May 1794. which I understand to relate to the criminal justice. Now, that the criminal justice of the city of Moorshedabad should be a part of the affairs of the household, in the confined sense in which they have considered the word *household,* is what I should hope your Lordships would not listen to as a possibility of a fair interpretation. The answer is that which we have brought in evidence:—

"You are undoubtedly the mistress to confirm, dismiss and appoint, whomsoever you shall think fit."

Now, as an illustration of this part, there is another part of the answer which is given in evidence by the Defendant, to which also I wish your Lordships to attend.

Partial suppression of the office of faujdary of the city.

"With respect to the khass talucks and the foujdary, the emoluments of the mahals have hitherto principally arisen from fines and other articles of the bazy jumma, which have been always complained of as a source of great oppression to the people. For their ease, the Company have thought proper to abolish these collections. In conformity to their sentiments, therefore, what remains of the khass taluck was let out to farm a considerable time before your desire in that particular was known, and the judicial office of the foujdary has been annexed by a new bundobust to the court of adaulut, so that nothing now remains of it but the name."

So that this office, by a different regulation, was so far dissolved that nothing but the name remains. But it is material for you to consider with whom the name remains, in the view in which the Counsel have taken issue upon this argument; because in their view of it, and for the purpose with which they have introduced the request, they mean to state that the Munny Begum was not invested with that general sort of authority with which we contend she was invested, but only with the care and education of the Nawab and the business of his household. I say, while the name remained of the office of criminal justice, it is material to see with whom it remained; for nobody could conceive that to be an appendage to that confined sphere of jurisdiction which they suppose to be the situation of Munny Begum.

"Nothing now remains of it but the name, which according to your intimation will continue to Meer Easiof Ally Cawn; and, in lieu of the profits annexed to the office, I have proposed the addition of 600 rupees per month, to 400, which he already receives from the nizamut, in the list of the shigherdspeeha which has been prepared and submitted to you for confirmation."

The more, therefore, you read the evidence which the Counsel have adduced—the supplementary evidence upon the subject—for here it is supplementary and auxiliary to

us and not any way tending to contradict—you will see that, whether she was called by this name or whether she was called by that name, she did, in point of fact, enjoy all the powers which we stated; that she had the power of appointment and dismission; and that, even in the case of criminal justice, where the different arrangements that had been made left only the name, so cautious was Mr. Hastings, and so determined that she should have every appearance and all the insignia of power, even in that respect, the appointment to this office, which was attended with some nominal employment, was left with her.

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The appointment of the officer left with the Begum.

With respect to the appointment of this person, a great deal has been said on both sides. With respect to her condition, I won't go over all that was said by the honourable Manager in this box, and which was supported by the evidence before you, with respect to the situation in which she had been previously to her marriage with Mir Jaffier. But this is a point which is intelligible to every man; which is a point of policy, not referrible to the customs of one country or the customs of another, but which, if I may so express myself, is founded in nature and not in any particular policy of any country; she was not the mother of this Nawab, but she was his step-mother. And I will ask your Lordships whether you can believe that the nature of things in India is so different from the nature of things in Europe—that the nature of things is so different at our time from what they have been in the oldest histories of the world—that the nature of mankind is either so changed by time or so different from place, that it can be proper, upon the first view and without very strong reasons to the contrary, to set aside the mother to a Nawab—especially if it be merely for the guardianship and education of that Nawab—for the purpose of appointing a person in a relation very different indeed from mother, if proverbial expressions be true from age to age—who is not his mother but his step-mother?

The appointment of a step-mother as guardian objectionable.

Your Lordships have it in evidence—upon which the Counsel have made no remark, and therefore to which I shall make no reply—that there was an application from a considerable person very nearly related to the Nawab, Yetteram-ud-Dowla, for this office. The Counsel have prudently declined stating why that application was disregarded, and why Mr. Hastings, going against the first principle of propriety which to the most common understandings would have suggested itself, should have set aside an uncle—should have

Application of Yetteram-ud-Dowla for the office.

20 May 1794. set aside a mother—for the purpose of appointing to this office the person who, upon the first view of the subject, was the most improper that could have been chosen, viz., the step-mother.

Reticence of Mr. Hastings on the subject of the Nawab's mother.

My Lords, in our evidence, we fortified the presumption against Mr. Hastings in this part of the case, by stating that, though he well knew that the mother of Mobarick-ud-Dowla was living, he did not acquaint the Company with that circumstance, but rather cautiously avoided any mention of her existence to the Company, lest, upon the first view of the subject, it should appear to them, as it does to me and I make no doubt will to your Lordships, that she was a more eligible person for this employment than the step-mother. We have brought evidence to that subject. What have they brought? They have brought a transmission, not made by Mr. Hastings; the very date of which proves it could not have been made by Mr. Hastings, for it was prior to the time in which Mr. Hastings was in the situation to make such transmissions. And what is that transmission after all? It is a transmission in the Persian correspondence, not for that purpose or with that view, but in which it occasionally comes out that such person is living: and you have evidence at your bar to prove that such country correspondences are frequently received by the Directors, and, from their not being applicable always to the immediate business which they are to transact, often lie for a long time unperused by the Directors, and consequently unattended to.

If this transmission, therefore, had been made by Mr. Hastings—which, by the date, to which I beg to refer your Lordships, it is evident it was not, but by his predecessor—if it had been made by Mr. Hastings, it was made in a way which could not call the attention of the Company to such a circumstance. And it is impossible, without a supposition of some guilty design, that, in the whole of the correspondence upon the subject of Munny Begum and upon the appointment of this step-mother, it should never have occurred to him to have mentioned the existence of the real mother of the prince, and the reasons why she had been passed over and this lady appointed to this employment in her place.

I refer your Lordships to the evidence, which has not been observed upon by the Counsel. But I hope your Lordships will not, therefore, when you come to consider this subject in your judicial capacity, omit attending to that part of the evidence which I pointed out in a former stage of this prose-

cution, merely because I do not again refer you to it at the present. But you will find, upon this very subject, that Mr. Hastings did actually dispossess this mother, in favour of this step-mother, from the superiority to which, from being mother to the prince, she was intitled by the circumstances and the manners of that country. 20 MAY 1794. Injustice of substituting the Begum as his guardian.

My Lords, we have hitherto treated the appointment of Munny Begum merely as an improper appointment; as an appointment not consistent with Mr. Hastings' duty to the India Company; not consistent either with the letter or with the spirit of those orders which direct him to appoint a proper person. Now, my Lords, how are these orders evaded? In a manner, in my opinion, as disgraceful as any evasion that ever was attempted. My Lords, they say that the India Company ordered him to appoint a person of such and such a description, and properly qualified to succeed Mohammed Reza Khan. Mr. Hastings' evasion of the Company's orders with respect to the appointment.

"I obeyed," says he, "their orders in dismissing Mohammed Reza Khan; but, when I had dismissed Mohammed Reza Khan, I thought that that office ought no longer to continue in its present form, and therefore, though I appointed a person virtually endowed with much the greater part of the power which Mohammed Reza Khan before possessed, I then thought myself absolved from the spirit and letter of that order [with respect] to the person whom I so appointed his successor; and, being determined not to obey the orders of the Company with respect to the qualities of the person to succeed, the only way of doing this without manifest and direct disobedience was to appoint a person, under colour of a change in the nature and power of the office, to that situation, whom I could not [otherwise] have appointed to it under that order, without directly and immediately violating the letter and spirit of the orders I had received."

My Lords, you will observe, upon this occasion also, that we have given it in evidence that a considerable part of those reasons were false in fact; that he lays a great stress upon that which was likely to make an impression upon the Company—that the salary enjoyed by Mohammed Reza Khan as naib subahdar was a large one which might be spared. We have proved in evidence — and the Counsel have not brought a tittle to contradict it, either in evidence or observation—that that same salary amounted to three lacs. That which he complains of as being a useless expense to the Company was an expense incurred by his appointment of Munny Begum to the offices she held, in lieu of that of the naib subahdar, which had been held by Mohammed Reza Khan. Pretext of Mr. Hastings for the suppression of the office of naib subahdar.

With respect to the powers and importance of this office the Counsel have made a most curious argument. They say,—"After all, had Munny Begum any power at all? Was Argument of Counsel on the powers entrusted to the Begum.

MAY 1794. the office of naib subahdar an office of any power at all? No! for you have proved that the Nawab was a cipher in the hands of Mr. Hastings; and, if the Nawab was a cipher in the hands of Mr. Hastings, *a fortiori*, all the persons acting in the name of the Nawab were ciphers in the hands of Mr. Hastings." I would ask the Counsel, if he had an opportunity of answering, whether he is really serious in this argument?—whether he means to state to your Lordships, that, because a prince was reduced in his own person to a state of annihilation, so that he actually depended upon the East India Company or any foreign power, all who acted in his name immediately became persons of no consequence whatever? That this should be stated as applicable to an Indian subject is most extraordinary of all; because, by the same line of reasoning, I can prove the Company had no power in Bengal at all; that no servant of the Company had any power or authority there whatever; because, upon the principle of the gentleman, if the Nawab had no power, all those who were his deputies and who acted in his name must be still more insignificant than he. And yet in his name have the Company acted; in his name have all the servants of the Company acted; and in his name has the government of that province been certainly exercised.

Cause of the Nawab's insignificance.

I should apprehend, the reason why the Nawab was reduced to a cipher was, because those who were to act in his name, who were to carry on the government of the country with powers, in many instances, such as we in this country have no idea of—and I hope and trust in God we never shall have any idea of!—I say, that the persons employed in such offices and invested with such powers were, though acting in the name of the Nawab, virtually and substantially appointed by the Government of Bengal; and that is the cause of the insignificance to which this Nawab is reduced. And therefore it seems to me to be the most extraordinary reasoning indeed, to say that, because I, or any other man, had the appointment of a person who acts in the name of a prince with full powers, because by such appointment I reduce him to a cipher, therefore my instrument, who acts in his name, is also a cipher. The circumstance of his insignificance depends upon this—that these nominations of his power though in his name are not his own: but the powers are not the less the powers of the whole government of the country. In a country where the Defendant at your bar has stated, to the shame of all

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British feelings, and to the shame of all honest feelings in every part of the world, that the power of the sovereign is everything and the rights of the people are nothing, yet that power of sovereignty, in all its delegated parts, so exercised, the learned Counsel on the other hand state to be nothing and that they can be nothing. Why? Because it is in the name of the Nawab, who is insignificant! Insignificant I admit—but why? Because the appointment of all his subordinate officers, and this great subordinate officer, among others, who has all the power of the country, is nominally only in him, but virtually and substantively in the power of those who govern at Calcutta—[an authority] in this particular instance exercised by Mr. Hastings.

His dependence upon Mr. Hastings.

My Lords, we have hitherto considered this subject as relating to the propriety of the appointment. I wish now to consider it in a different view, and as furnishing presumption, and reasonable presumption, with respect to the bribe which we charge Mr. Hastings to have taken from Munny Begum, or from Raja Goordass, or from Nundcomar, his father, at the time Raja Goordass was appointed to the office of ray-rayan, which was at the same period with the appointment of Munny Begum.

The receipt of bribes imputed to Mr. Hastings.

My Lords, the money which we suppose Mr. Hastings to have received consists of two parts; one, a lac and a half given under the specious title, as it is said, of entertainment while he was at Moorshedabad; the other given under no specious title at all, but, as we apprehend, for purposes confessedly unlawful and corrupt. With respect to the first part, the lac and a half, it is now avowed: and it may be a circumstance something extraordinary in your Lordships' observation, for you will find that, in the course of this whole prosecution, in the course of all the variety of charges—answers—all the letters of Mr. Hastings upon the subject of peculation, all his different Defences, in which he has stated so many things contradictory one to the other, till this prosecution came into this place the receipt of it never was distinctly avowed.

Tardy admission by Mr. Hastings of the receipt of allowances for entertainment.

My Lords, the way in which that is endeavoured to be supported is, by what does not appear to me to be exactly a similar case—by money given for entertainment of the Nawab while he was at Calcutta. I will not, however, go into this part of the question much, because it is a question upon which I do not know that, in point of fact, there is any difference between the Counsel on the other side and me. I

20 May 1794. state the money to have been received: they admit it to have been received. They state that Mr. Hastings received it under that pretence: I admit that that pretence has been set up also. How far that pretence [is available], under the circumstances of the duty which the Governor General owed to the Company, in the circumstance of his having received actually a considerable allowance in that year from the Company for travelling expenses, in the circumstance of his having stated and admitted that the allowance given to the Governor was sufficient to keep him from the temptation of any other profit, of any species or sort whatever, is a matter which is to rest with your Lordships' judgment, which I do not know how further to illustrate by argument, and upon the facts relating to which I do not know that the Counsel and we are at any issue whatever, or have any difference at all.

The pretext inadmissible.

The receipt of further sums now for the first time denied.

With respect to the remainder, it is far different. With respect to the remainder, it is now for the first time expressly denied that Mr. Hastings had received any such money. For, as I remarked in the other instance that it was for the first time expressly admitted, so I remark upon this that it was for the first time expressly denied. For it cannot have escaped your Lordships' observation, I am sure, that I dwelt, perhaps, too long in point of time, when I summed up the evidence upon this subject, upon that part of the evidence. I might fail for want of ability—I did not fail for want of labour and industry, at least—in the endeavour to impress upon your Lordships' minds that, though this had been objected to Mr. Hastings, at a variety of different times and places, by enemies and by friends, he upon no occasion, though stating it in a variety of ways, ever did deny the distinct receipt of these sums. Therefore it is for your Lordships' observation that the receipt of these sums is now for the first time denied.

Direct evidence precluded by the nature of the case.

How am I to make out that they were received? My Lords, I know nothing of criminal justice if I do not know this—that, with respect to crimes of any sort, and especially of this kind, which are naturally crimes attended in their commission with a considerable degree of caution and secrecy, not crimes that are the effect of sudden passion or that are carried into execution by open violence—that, in the investigation of crimes of every kind, but especially of crimes of this sort, the only method generally—I know there may be some exceptions—but the only method generally of proving

such crimes must be by circumstances—must be by the various circumstances which occurred at the time of the supposed receipt, or at times when discoveries either were pretended to be made or might have been made; and, above all, they must be collected from the behaviour of the accused person, at different times, when he had an opportunity of showing by his demeanour his guilt or innocence of such accusations. It appears in evidence—page 1003—that two lacs were particularly charged of Nundcomar's accusation against Mr. Hastings, over and above the lac and a half pretended to be given for entertainment; and there are stated the names of the persons into whose hands it was paid. 20 May 1794.

Mr. Hastings is charged by Nundcomar with the receipt of two lacs.

Now, I am sure your Lordships will understand that I am not stating this charge of Nundcomar to be substantively evidence against Mr. Hastings, but I am stating it to show how Mr. Hastings behaved upon hearing such a charge. Mr. Hastings' words upon some of those occasions are exceedingly remarkable. He states, in page 1005 of the printed Minutes:—

His suspicious conduct under the imputation.

"Mr. Francis has acknowledged that he apprehends in general that it contains some charge against me. If the charge was false, it was a libel. It might have been false for anything that Mr. Francis could know to the contrary, since he was unacquainted with the contents of it. In this instance, therefore, he incurred the hazard of presenting a libel to the Board."

Your Lordships will observe that, in this discussion, with this particular mode of reasoning of Mr. Hastings, and this sort of accusation which he conveys against Mr. Francis, he says—"it might have been. Mr. Francis ran the risk of presenting a libel:"—but he does not say—what would have been the natural declaration of an innocent man upon the subject—"Mr. Francis presented what might not be true and therefore might be a libel; but he also presented what I declare is a libel; is not true; and is unfounded in fact." My Lords, soon after this you will see, in page 1006, that he endeavours to break up the Council, and, as they contend on the other side, succeeds in it.

In page 1025, there is a letter dated the 24th of March, signed "Warren Hastings," which recites what passed after his absence; and it appears from the 20th paragraph that Nundcomar gave a positive declaration as to the sums which he had himself paid to the Governor General, and gave in a letter, under the seal of the Munny Begum, stating the

20 MAY 1794. circumstance of the Governor's having received two lacs from her. It was thought necessary to authenticate the seal and letter by comparing them with others from the same person, in presence of the Persian translator and his munshi, who declared the seal to be that of Munny Begum. On this evidence, the Board called on the Governor to refund the sums he had so acquired and pay them into the Company's cash. The secretary was accordingly ordered to wait upon him with their demand; to which the Governor, declining to acknowledge the authority of the Board then sitting, refused to give an answer. In the 22d paragraph, it is stated that he refused to let Cantoo Baboo attend the Counsel, who could have vindicated or falsified the letter produced by Nundcomar. So that, when this letter was produced and he had it in his power by means of his servant to authenticate or falsify the letter, he refused to do it.

He is required by the Board to refund the sum in question.

Refuses to allow Cantoo Baboo to attend the Council.

He declines to deny the charge.

There is also in evidence a letter of his, from page 1020 to 1024 of the printed Minutes. This letter occupies five folio pages. In this letter he enters minutely and elaborately into all the general charges of Nundcomar, denying many of them; but he does not deny the special charge relative to the two lacs or a lac and a half, though he tries to discredit Nundcomar. Then, if you look to page 1096, you will find there that the majority of the Council draw inferences in the presence of Mr. Hastings from his silence; that they urge it to him—particularly Mr. Francis—on the 21st of March, and again by a majority in a joint minute of the 15th of September.

In page 1099 of the printed Minutes, Mr. Hastings, professing to answer this minute in detail, says that this paragraph requires no reply; though it is to be remarked that, with respect to exculpating himself and exculpating himself upon oath, he does not conceive it to be altogether a practice unworthy of him; for, with respect to what he conceives to be imputed to him of having had some share in the prosecution of Nundcomar, he voluntarily makes a denial of it upon oath. It is objected to him,—"If you deny that upon oath, why not deny the having received a present from Munny Begum upon oath also; or why not declare like an honest man either upon oath or honour? Put an end to the suspicions that arise from this accusation of Nundcomar and from this letter of Munny Begum. Why not put an end to this by denying the fact?" This

paragraph merits no answer, says Mr. Hastings. He answers to the other; I will not say because he thought, in that other, whether he answered truly or falsely, he was not liable to detection. He purges himself upon oath of all share in the prosecution of Nundcomar, and he does not dare to purge himself upon oath, or to deny upon his honour having received this money from Munny Begum and Nundcomar; because Nundcomar was there, and Munny Begum's letter was there, by which that oath or that word of honour, if he had pledged it, would have been immediately brought into disrepute. 20 May 1794.

But this is not all. In page 1040, you will find that there is a letter in which Mr. Hastings accuses Mr. Goring of severity to the Begum, and, as one instance of severity, Mr. Hastings inserts a letter from Nunduroy, in which he mentions Mr. Goring and Raja Goordass having had an interview, and he there states that in that interview they entered into conversation with Chyton Durr, the Behla treasurer, concerning the nazrana given to the Governor, amounting to two lacs of rupees, which were sent to Calcutta at the time of the Begum's being invested with the administration. So Mr. Hastings himself transmits a letter, in which —though certainly he does not transmit it with that view —while he is endeavouring to prove a severity used by Mr. Goring against the Begum, in the course of the facts which he makes use of to substantiate that severity, a conversation is alluded to. And what is that conversation? Speaking of it as a notorious fact, of which no one could be ignorant, the truth of which is not called in question: it is not even stated to be false by any person at that time. Talking with this person, he says, "They talked about a nazrana," which I take to be an Indian word for a present made by the Begum to Mr. Hastings—"and which was sent to Calcutta at the time of her investment." What nazrana? Not the lac and a half given for entertainment; "for," says he, "a nazrana amounting to two lacs from Munny Begum was sent to Calcutta at the time of her investment."

Conversation between Mr. Goring, Raja Goordass, and Chyton Durr, respecting the receipt of the present.

Can your Lordships believe that a man, innocent upon the subject, and, at the same time that he is innocent, knowing it is a subject upon which his enemies did not believe him innocent—knowing it is a subject upon which he is charged—knowing it is a subject upon which much had passed in Calcutta, and much was likely to pass in this country also—could transmit a paper with such a fact in it,

Continued reluctance of Mr. Hastings to deny the fact.

20 MAY 1794. without at the same time stating the falsehood of the fact to which that conversation alluded—without protesting his innocence—without declaring to the court of Directors, his masters, that the fact alluded to ought not to alarm them, for it was a forgery, a falsehood, and one that had no real existence? Could he have done so but for one single reason—that he dared not to have said so; because, at the time, if he had ventured a denial, his denial would have been immediately disproved by the concurrent testimony of all persons that were concerned in it, and who, from the situation of affairs then, might possibly be induced to do what no native inhabitant of that country has in any other instance ever done—have given direct evidence with respect to presents or bribes which they have given to the servants of the India Company in Asia?

Inconsistency of Mr. Hastings' conduct with respect to Nundcomar.

Upon this part of the case there also recurs another strong presumption; I mean, Mr. Hastings' conduct with respect to Nundcomar. And here I must particularly desire your Lordships to keep in your recollection, if you can, the arguments of the Counsel upon the subject, in which he has, either from inaccuracy or from that sort of fault which a person in the course of speaking may have—that he could not bear to speak a truth that made so strongly against his client—directly stated falsely to your Lordships what stands in evidence upon that subject. We stated evidence to prove, and we did prove, to your Lordships the inconsistency of Mr. Hastings' conduct and of his opinions with respect to this celebrated person—whatever may be his character, he is now sufficiently known by his fate, I mean, Nundcomar—that fate which is peculiar to him, that he stands—I believe I may literally say without fear of contradiction—the single instance of any native of India who ever offered to discover the presents which he had made to an English Governor. And we cannot quite, when we look at the times and the circumstances, forget that singularly concurring circumstance—if it was fortune alone that occasioned that concurrence—that, as he is the single instance of such an accusation, so, I believe, he is the single, but I am sure nearly the single, instance of a native of that high caste and of that high character—I do not mean in the sense of reputation, but of character—suffering ignominiously by English laws in Calcutta.

With respect to Mr. Hastings' conduct to Nundcomar, we proved the inconsistency of it. We stated that Mr. Hastings,

in the year 1772, did not seem to entertain so unfavourable an opinion of Nundcomar; that he continued to express no unfavourable opinion of Nundcomar till about the time when there was reason to think that that would happen which actually did happen—that Nundcomar, seeing from the change of government, as he thought, an opportunity of bringing to light the facts of Mr. Hastings' corruption, was likely to seize the opportunity and accuse Mr. Hastings of corruption. From that time, and as I contend never till that time, did Mr. Hastings state the character of Nundcomar in the way in which he then stated it. And here, as I am very much at issue upon a point of fact with the Counsel on the other side, I beg your Lordships to advert to the evidence which we have brought—not only the evidence which we have brought, but which they have brought; that you will consider it attentively; and then I defy you not to give judgment upon this point in my favour. And yet I do say that the Counsel has misstated the evidence upon the subject completely, and that the mere state of it does completely overturn the whole of his argument upon that subject. 20 May 1794.

My Lords, with respect to the opinion the witness expresses of Nundcomar in the year 1775, there we are not at any issue, because we admit it to have been exceedingly bad. We now are upon the opinion expressed by Mr. Hastings in the year 1772.

Mr. Hastings' vindication of Nundcomar in 1772.

"The president does not take upon him to vindicate the moral character of Nundcomar—that is, his moral character in general, which does not appear to be remarkably favourable. His sentiments of this man's former political conduct are not unknown to the court of Directors, who, he is persuaded, will be more inclined to attribute his present countenance of him to motives of zeal and fidelity to the service, in repugnance perhaps to his own inclinations, than to any predilection in his favour. He is very well acquainted with most of the facts alluded to:"

not, as the Counsel has stated, all the facts alluded to; and the difference between all and most in this case, as your Lordships find, will make the whole difference upon the question, as you are afterwards to reason upon it and to judge upon it.

"He is very well acquainted with most of the facts alluded to in the minutes; of the majority having been a principal instrument in detecting them; nevertheless he thinks it but justice to make a distinction between the violation of a trust and an offence committed against our Government by a man who owed it no allegiance nor was indebted to it

20 May 1794. for protection, but on the contrary was the actual servant and minister of a master whose interest naturally suggested that kind of policy which sought, by foreign aids and the diminution of the power of the Company, to raise his own consequence and to re-establish his authority. He has never been charged with any instance of infidelity to the Nabob, Mir Jaffier; the constant tenor of whose politics, from his first accession to the nizamut till his death, corresponded in all points with the artifices which were detected in his minister, so that they may be as fairly ascribed to the one as to the other. Their immediate object was, beyond question, the aggrandisement of the former, though the latter had ultimately an equal interest in their success. The opinion which the Nabob himself entertained of these services and of the fidelity of Nundcomar evidently appeared in the distinguished marks which he continued to show him of his favour and confidence, to the latest hour of his life. His conduct in the succeeding administration appears not only to have been dictated by the same principles, but, if we may be allowed to speak favourably of any measure which opposed the views of our own Government and aimed at the support of an adverse interest, surely it was, not only not culpable, but even praiseworthy. He endeavoured—as appears by the extracts before us—to give consequence to his master, and to pave the way to his independence, by obtaining a phirman from the King for his appointment to the soubahship, and he opposed the promotion of Mohammed Reza Khan, because he looked upon it as a suppression of the rights and authority of the Nabob. He is now an absolute dependent of the Company, on whose favour he must rest all his hopes of future advancement."

And then he goes on with other arguments.

You will see, therefore, my Lords, that, in this minute, Mr. Hastings declares that, though he knows most of the facts alluded to, yet he has not a bad opinion of Nundcomar in general, as appears by this declaration. He says,—"The acts were, I admit, contrary to the interests of the East India Company—but what then? He was employed by a power whose interest might clash with ours, and perhaps his conduct ought not to be viewed in a light disreputable to him, merely because he acted hostilely towards us, because by such conduct he showed his attachment to his own master." He reasons against that absurd and strange prejudice which makes us hate men for acting faithfully to their own country and their own employment, though those acts may be contrary to the interest of our own. He says, he makes a distinction between the violation of a trust and an offence committed against our Government by a man who owed it no allegiance—any hostile acts against the Company which he may have been guilty of, if you can call it guilt, but which he may have done in conformity with his obedience and his relation to his own country, his own superior and his own employer.

Now, do you keep in your minds that he says, "most of this." The learned Counsel in his speech—if it is properly taken down by the short-hand writer: and, if my memory goes right to it, it is—says, "Mr. Hastings was privy to all these transactions." The difference is this:—I believe it is in your Appendix; and the whole of the consultation, of which this minute of Mr. Hastings makes a part, was afterwards produced in evidence:—the facts there stated against Nundcomar are of a great variety of kinds—forgeries, false accounts of various kinds, and also acts of hostility to the Company. What does Mr. Hastings say? 20 May 1794.

Misstatement of Counsel respecting Mr. Hastings' knowledge of the malpractices of Nundcomar.

"I was privy to most of these acts, and was also engaged in the detection of them, but I do not conceive them to be of so black a dye as the rest of the Committee seem to think."—Why?—"Because they might be done in conformity to his duty to those who are his actual employers."

Now does this apply to forgery? Could Mr. Hastings mean,—"I was privy to his forgeries: I was privy to his perjuries: but these might not be crimes, because they might be for the advantage of his masters?"

After the defence we have heard upon the subject of the Begum Charge, I do admit it is possible that Mr. Hastings—but not that any other man upon earth—should have had such an idea in his mind. I know that, after the defence upon the Begum Charge, in which breach of treaty, in which violations of promises, in which every species of oppression and injustice, is endeavoured to be extenuated, if not justified, upon the principle of being advantageous to the Company, his employers,—I admit, upon that principle of reasoning, he might have said the rapacity and forgery of which Nundcomar might have been guilty were to be extenuated and not be considered as actions rendering him wholly unworthy of trust, because they might have been advantageous to his employers. But that mode of reasoning was not, I hope and trust, at that early period, in the mind of Mr. Hastings; [I trust] it was never in his mind, nor in the mind of any other man, till the desperate situation of his defence against this Article made him adopt species and kinds of defence which, even to hear, and to hear in a country valuing itself upon humanity and justice, is in my opinion a prodigy of the age in which we live. He had then, I hope and trust, no such sentiments: and therefore, when he says I was privy to most of this, he must mean those acts which his subsequent defence—if you so call it—or justification,

20 MAY 1794. or extenuation, is applicable; not the perjuries, not the forgeries, but a conduct in general hostile—a conduct in general inimical to the interests of the Company. To that, he says, he was privy; and therefore he correctly and judiciously says—not as his Counsel say for him in the year 1794, but as he wrote in the year 1772—not that he was privy to all those accusations against Nundcomar, but privy to most; excluding by the limited word "most," and by his defence afterwards, those to which he was privy specifically—all those blacker crimes of perjury and forgery which could admit of no extenuation or palliation from any obedience to any powers whatever, and any interest in which he was engaged.

I trust I have satisfied your Lordships that, in point of fact, the Counsel have falsely stated this minute to which they have referred, and that they substituted, instead of the word "most," which is restrictive upon the face of it, the word "all," a comprehensive one, for the purpose of inferring, directly contrary to the fact, that Mr. Hastings did at that time think as highly of Nundcomar as he stated himself to do in 1775. But this is not all. I wish your Lordships to observe another excuse of the gentleman's upon the subject. He says:—"What! is it credible that we should give this minute of Mr. Hastings in evidence, when there is a letter of Mr. Hastings to the Company which gives the reason for his having palliated, so contrary to his sentiments, the character and conduct of Nundcomar?"

Explanation, according to Counsel, of Mr. Hastings' defence of Nundcomar.

Now that letter to the Company must be read. It begins in page 2103 of the printed Minutes: the part which is material begins at the bottom of page 2104. And here, before this letter is read to you, I wish your Lordships just to pause, and to consider what you would suppose this letter to be, if you had taken that argument of the Counsel without referring to it. The argument of the Counsel—I am sure I do not mean to mistake him: that he knows perfectly well—the argument of the Counsel, if I mistake it not, is this:—that Mr. Hastings had the positive orders—which by the bye is not true, but directly contrary, in my opinion; but that may be necessary to observe upon by and by—that he had the positive orders to appoint Raja Goordass, or to do at least something which should put Nundcomar in a situation of authority and trust. Therefore he says that he was under this difficulty:—he had orders from the Com-

pany to do that which, perhaps, his own mind disapproved, and, being under orders of secrecy not to communicate these orders to his associates, he was driven to a thing utterly repugnant to the mind of Mr. Hastings—he was driven not to speak with that plain, honest, simplicity which characterises his general speeches and writings. He was forced to palliate as much as he could the conduct of Nundcomar, because he was not at liberty to give his true reasons for appointing the son of Nundcomar. "Therefore," he says, "you should read his letter to the Company." 20 May 1794.

Upon hearing this assertion I felt a little ashamed. I thought, when this letter was produced, it would contain what the arguments of the Counsel led me to suspect that it would contain—matters to this effect:—"I have appointed Raja Goordass, in order to fulfil your orders, and put Nundcomar in a situation to detect the malversations of Mohammed Reza Khan. The Council objected to it on account of the badness of his character. I have nothing to say for him. I was forced to use such palliations and extenuations as could suggest themselves to me; and under all this difficulty was I put in order to defend doing that which I did only in implicit obedience to your commands. But you know the true reason of my conduct. One of the gentlemen observes, that it was not for these flimsy reasons that I appointed Raja Goordass, but I appointed him in obedience to your orders. And never did I suffer more in my life than when, being driven from the simplicity of my general conduct, I was forced to state reasons the validity of which I did not feel myself, and when I was forced to state facts about the truth of which I doubted, and arguments the force of which I did not in my own mind in any degree rely upon."

Letter of Mr. Hastings to the Directors respecting the employment of Nundcomar.

What is the fact? Hear the letter read, and you will find, in giving an account of this transaction, it is the very reverse. He tells the Company,—"I have done this. I thought I acted agreeably to the spirit of your orders in doing it, but the reasons I gave in the Committee are my reasons."

He refers the Company back to this minute for his reasons, which are held only to be extenuations which he made from the difficulty of his situation; and now to these extenuations does he refer the Company, his masters, as the ground of his conduct in this particular:—

"The same principles guided me, though not uninfluenced by other

20 May 1794. arguments of great force, in the choice of Munny Begum, the widow of the Nabob Meer Jaffier, and of Rajah Goordass, the son of Maharajah Nundcomar;—the former for the chief administration, the latter for the dewannee of the Nabob's houshold; both the declared enemies of Mahomed Reza Khan. To the latter, indeed, I was principally inclined by your commands; and I hope it will appear that I have adopted almost the only expedient by which they could be exactly fulfilled. You directed that if the assistance and information of Nundcomar should be serviceable to me in my investigating the conduct of Mahomed Reza Khan, I should yield him such encouragement and reward as his trouble and the extent of his services may deserve. There is no doubt that Nundcomar is capable of affording me great service by his information and advice. But it is on his abilities, and on the activity of his ambition and hatred to Mahomed Reza Khan, that I depend for investigating the conduct of the latter, and, by eradicating his influence, for confirming the authority which you have assumed in the administration of the affairs of this country. The reward which has been assigned him will put it fully in his power to answer these expectations, and will be an encouragement to him to exert all his abilities for the accomplishment of them. Had I not been guarded by the caution which you have been pleased to enjoin me, yet my own knowledge of the character of Nundcomar would have restrained me from yielding him any trust or authority which could prove detrimental to the Company's interest. He himself has no trust or authority but in the ascendency which he naturally possesses over his son. An attempt to abuse the favour which has been shown him cannot escape unnoticed, and if detected may ruin all his hopes. The son is of a disposition very unlike his father;—placid, gentle, and without disguise. From him there can be no danger. You will perceive by the records that this appointment has not taken place without opposition from a majority of the gentlemen who form the Committee now at this place. I know not whether you will approve or disapprove of the silence which I have observed with respect to your orders, in the arguments which I have used in support of my recommendation. My reason was, that I thought the measure in itself so proper that I did not doubt of its receiving the confirmation of the Board at large; and, unless some material advantage could be gained by it, I did not think myself at liberty to divulge your secret commands. I am at this time most firmly persuaded that no other measure whatever would have been likely to prove so effectual, either for promoting the inquiry which you have directed, or giving strength and duration to the new system. I hope I shall not appear to assume too much importance in speaking thus much of myself, in justification of the motives which led me to this recommendation;—that I had no connection with Nundcomar or his family prior to the receipt of your letter by the Lapwing. On the contrary, from the year 1759 to the time when I left Bengal in 1764, I was engaged in a continued opposition to the interests and designs of that man, because I judged them to be adverse to the welfare of my employers; and, in the course of this contention, I received sufficient indications of his ill will to have made me his irreconcileable enemy, if I could suffer my passions to supersede the duty which I owe to the Company. My support of Nundcomar upon the present occasion could not, therefore, proceed from partiality. It will be as obvious that my preference of him to other competitors could not arise from interested motives. I may be charged with inconsistency, but the reasons

which I have urged in the minutes of the Committee in support of this measure will, I trust, acquit me to my honourable employers; and, if my conduct shall stand the test of their judgment, it is a point of duty to bear with the reproaches of the uninformed part of the world. To the service of the Company and to your commands I have sacrificed my own feelings." 20 May 1794.

Its incompatibility with the argument of Counsel.

So that, my Lords, this transaction appears to have been directly the reverse of what is stated by the Counsel on the other side. He there says, and gives this colour to the transaction—that the reasons given in the Committee were extenuations and palliations to which he was driven by the orders of the Company. In other words,—"To the orders of the Company I must refer as a justification of the reasons which I gave in the Committee." Mr. Hastings states the direct converse. He states:—"To the reasons I gave in the Committee I must refer for a justification of my conduct to the Company." So that it is not only not true what the Counsel has stated, but precisely the very converse of that; and, instead of referring to the orders of the Company as a justification of having stated such palliations in his reasons to the Committee, he refers to those identical reasons he gave in the Committee as a justification to the Company for the appointment he made of Goordass, the son of Nundcomar!

The appointment of Raja Goordass contrary to the spirit of the Company's orders.

Your Lordships will also have observed, in the course of reading this letter, how false is the pretence that he acted in consequence of the orders of the Company; whereas you will perceive by this reference to them in this letter, which the Counsel themselves lay before you in evidence, that the orders were, to employ Nundcomar for the purpose of the detection of Mohammed Reza Khan, but to put him in no place of trust. In this case he goes directly contrary to the orders of the Company. If he supposes Raja Goordass to be of the pliant character which he attributes to him, it is impossible to deny but that the appointment of him was giving trust, authority and power, to Nundcomar.

Further disobedience in respect of the reward given to Nundcomar.

There is also another material word which I wish your Lordships to advert to in that letter. The Company's order was "to give it as a reward:"—a reward of what? The service he may have done in detecting the malversations of Mohammed Reza Khan. When is this done?—at any period after the trial of Mohammed Reza Khan is over? No! Before any such trial or any such inquiry is commenced a reward is given him—"as a reward"—as Mr. Hastings calls

20 MAY 1794. it—"for the purpose of encouraging him to do the service." Now, without going into any grammatical consideration of the word *reward*, the popular sense of which, undoubtedly, is exactly consonant to its etymology, the import is—something done in consequence of some anterior service, and not an encouragement with respect to some intended service—without entering into any grammatical reasoning upon the subject, is it not plain that the mistrust the Company had in Nundcomar gives this effect to the word, that they mean—"trust him but little; give him no authority or trust; but give him a reward when he shall have done the service?" What does Mr. Hastings do? He says,—"I will give him a reward;" perverting the use of the language, as he does whenever he thinks it may in any degree help to assist his cause :—"I will give him a reward, for the purpose of enabling him to make discoveries." A reward for the purpose of enabling him to make discoveries! It is not more contrary to every principle of language than it is contrary in substance to the mode of acting which the Directors had pointed out to him, and which he would have followed if he had not, by these sums of money given him by Nundcomar or Munny Begum, been persuaded to a contrary course. He himself says, he was liable to such suspicions. Liable to such suspicions indeed! But these suspicions he did not think were to be wiped away, as the Counsel think, by a reference to the orders of the Company; for he is not satisfied with such reference, but refers the Company back again to what he states in the minute in the Committee. Here then I ask, once for all—does the minute in that Committee contain his solid, serious, opinion, by which he means to stand, as a grave opinion given by him in that Committee? Is it or not his grave opinion? I only ask that question of the Counsel for the purpose of exculpating Mr. Hastings: I care not what is the answer to it: I will take it that it is his solid opinion.

Vindication of Nundcomar by Mr. Hastings a proof of guilt.

If it was Mr. Hastings' grave opinion—if he thought that, with respect to most of the facts alleged against Nundcomar to which he was privy, there were excuses to be found for those acts in the relations in which he stood to other princes and to the Company—that many of them were so far from being blameable that they might be meritorious, with respect to those that employed him;—if that is his solid

opinion, I then come to what is stated in this Charge—that 20 MAY 1794. opinion changed, without any particular grounds for changing it, at that very particular time when Nundcomar was about to bring an accusation against him, Mr. Hastings.

I will take it the other way—that it was not his grave opinion, but a shift to which he was driven—a palliation and extenuation he was obliged to counterfeit, in conformity with the orders of the Company, as stated by the learned Counsel. Then I say, he does not demolish, he only changes the nature of the Charge against Mr. Hastings; for I ask, upon what pretence can a man answer to it, that, when he is giving an account of a transaction in which he is making himself liable, as he states, to suspicion of corruption—when he is doing a thing in the nature of it exceedingly doubtful, and which a man would for the sake of his own honour and reputation wish to have as clear as light—when he is engaged in such a transaction, he refers his masters, with whom he is to account with complete confidence—he refers them, as the real grounds and reasons of his act—to what? to things that are not his opinion—to reasons which he gave for a particular political purpose, and, in fact, to extenuations and palliations to which he was driven as a shift, but in which he had no confidence and which was not his real opinion! Can I state a greater presumption of guilt against Mr. Hastings than this? He did an act which I state, upon the face of it, to be probably a corruption. In giving an account of that act to the Company, he supposes them to ask why he did it. He says, he did it for the reasons you will find in such a page and such a book. And then we find that these reasons for which he pretends he did the act, were reasons consisting of facts which he did not believe, in arguments which he knew were weak, and which he used only for the purpose of the day—as has been often said—as extenuations and palliations, because he had no good arguments to use; and therefore those sorry arguments, miserable extenuations and palliations, he thought not only good enough for the Committee of Circuit, but for his masters, the Company; having no better ground to go upon.

I want to know how I can establish a stronger presumption of guilt than that a servant should state, as the motive for his conduct, reasons which he will not stand by and facts which he will not stand by, and which he states now by his Counsel as merely shifts to which he was driven in a bad

20 MAY 1794. cause, in which he found it difficult to say anything good; and therefore he had said this, because nothing better occurred to him? The presumptions, therefore, with respect to this bribe consist, not only in the strange appointment of Munny Begum and Raja Goordass, but in Mr. Hastings' inconsistent behaviour with respect to Nundcomar; whom he has spoken of in the different ways which your Lordships have heard, and whom he directly accuses as a bad man, capable of forgery, etc., only when he was about to accuse himself. They consist also in his false account with respect to the importance of the appointment which he gave to the Begum; in his endeavours to palliate and extenuate, with respect to Munny Begum, all the powers which he had given her; and in all the other circumstances which have been produced in evidence. There are other circumstances of probably equal importance in this business, which, though the learned Counsel have not so much adverted to them, I hope your Lordships will not leave out of the case.

Recapitulation.

My Lords, I should, in recapitulating, have said undoubtedly that, perhaps, the strongest of all these presumptions arises from Mr. Hastings' demeanour upon these charges, which were made by General Clavering, which were made by Mr. Francis, which were made by Nundcomar in the presence of his colleagues, and which he never did venture or dare at any time peremptorily to deny. He says, that paragraph merits no answer. And it is very remarkable that this instance is a single exception to the conduct of Mr. Hastings and his defenders. In every other instance, inconsistency has been the marked character of their defence: in this instance I admit that his defenders are consistent with him; for, as he at Calcutta said,—"that is a paragraph of which I will take no notice," so his Counsel in Westminster Hall have said,—"the inferences from his demeanour are arguments of which I will take no notice." And not one single word have they said—because, I believe, they could not find anything to say—to explain upon any rational system the possibility of Mr. Hastings hearing and bearing these accusations repeatedly, in the way he did, without once ever venturing to deny the truth of them! In this way the Counsel have acted; for, in reading over an able and long speech of the gentleman, if I am not very much mistaken, or if there is not some error in those who have taken it down, I do not find one word which is explanatory of Mr. Hastings' conduct upon that subject relative to the two lacs.

There was another point pretty strongly stated in our evidence, upon which I cannot say that the Counsel have said nothing, but upon which I can with truth say that they have done nothing. My Lords, we showed, as a strong presumption of corruption in the appointment of Munny Begum and Raja Goordass, that many extravagancies were permitted. We stated, among others, that, though it was the direct order of the Company that a strict account should be kept of the Nawab's expenses at Moorshedabad, yet that it does appear that Mr. Hastings has no defence upon that subject but pleading guilty; that, owing to his defect and his *laches*, no such account ever did exist: by which means we infer —and I do not see how it can be got rid of—from such a neglect in such an instance, with regard to the particular part of India where corruption was most likely to be imputed, and in the particular part of his government where it was most likely to be suspected,—I mean the administration of the affairs of Mobarick-ud-Dowla at Moorshedabad, [a criminal motive]. Instead of obeying the orders of the Company to keep a distinct account, which might have discovered any fraudulent practice of his, he did neglect that order, and no such account was kept. How it came to be neglected, they say, they cannot tell; but that it was neglected. If there is that single circumstance unexplained, I must say, upon the face of it, such an omission and such a neglect are a strong presumption of a criminal motive and a bad intention in him who has so neglected to obey such orders of his employers. The orders were explicit, to reduce the Nawab's stipend to sixteen lacs; yet in fact that reduction did not take place at the time it was ordered.

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Omission on the part of Mr. Hastings to keep account of the Nawab's expenses.

We produced upon this subject an account of Mr. Crofts in 1775, and of Mr. Middleton in 1772. With respect to the account of Mr. Crofts in 1775, it is said that it was an erroneous account, and was afterwards corrected by an account of Mr. Johnston. Why then, it was, if they please, an erroneous account; and that the figures were altered from five to four, and in all the proper ways they choose to state, I do not mean to deny. But was it corrected in fact? Did the Nawab receive—or, rather, did the Company issue and did they lose these sixteen lacs which they determined not to pay in 1772? Look back to the account of Mr. Middleton, and by that account your Lordships will find that, in point of fact, down to the end of the year 1772,

Confused state of the account relative to the Nawab's stipend.

20 MAY 1794. the account was stated, upon the principle of the old stipend, at thirty-two lacs, and upon that principle there are stated to be nineteen lacs in arrear to the Nawab.

But when the Counsel come to this part, they say—I wish they had kept their word—that they will produce other accounts. That is what made me say that they had said something, but done nothing. They say, this is an erroneous account of Mr. Crofts, but they say they will produce accounts which will show that, in point of fact, the old stipend had not been continued, but the reduction had taken place in 1772. When I heard this in the gentleman's speech, I naturally expected to hear it in his evidence. Not hearing it, I thought it might be from some inattention of my own. When I read it again in his speech, I again recurred to his evidence. I could find no such evidence. No such account have they produced; and, if they had produced all the accounts upon that subject, they would have afforded a directly contrary inference; for, though the accounts are not in evidence before your Lordships, there is a letter of the Directors of the East India Company, in page 989 of the printed Minutes, relating to those transactions, by which they state the result with respect to their own minds, and the impression that is made upon them by all those accounts which the Defendant's Counsel promised to produce us, but which they were wise enough never to produce.

Excess of allowance paid to the Nawab.

What do the Company state to be the result of these accounts? That it does appear to them that there has been overpaid for the expenses of the Nawab at Moorshedabad, in the year 1774, the sum of seventeen lacs. Now this is not exactly sixteen, as I contend, but is so near it that you will have no difficulty to look at the account of Mr. Middleton, which is the actual account of what was paid—and to look at Mr. Crofts' account, which is only stated to be an erroneous account because it tallied with what had been done *de facto*, and not what ought to be done *de jure*; and, when you compare Mr. Middleton's and Mr. Crofts' accounts, you will find that he did, through the whole of the year 1772, in direct contradiction to the order of the Directors, pay the old stipend of thirty-two lacs; by which means, sixteen lacs of the Company's money was spent contrary to their orders.

Statement of the Company.

This was paid in 1772; and that accounts for the Company's stating that, in the year 1774, it appeared to them there had been overpaid seventeen lacs; which have never

since been recovered, that I have ever heard of, never since brought to account, and which, if they had, it was the duty of the Defendant to prove in evidence at your bar, in order to show that, whatever negligence there was in Mr. Middleton in 1772, whatever mistakes in Mr. Crofts' accounts in 1775, yet Mr. Hastings had corrected those accounts *de facto* as well as *de jure*, and had actually rectified the accounts, so that the Company should not have overpaid one shilling; whereas the Company state they had overpaid seventeen lacs, that is, one lac more than the difference between sixteen and thirty-two, which difference I contend did prevail, contrary to the express and specific orders of the Company. 20 May 1794.

It does not occur to me that I have anything more to trouble your Lordships with upon this part of the Charge; I mean, of the presents made to Mr. Hastings—or bribes; for I confess, notwithstanding all that has been said on the other side, in my dictionary, with respect to India, present and bribe are perfectly synonymous terms.

My Lords, I say that, with respect to those presents or bribes which appear to have been received by Mr. Hastings prior to the Act of 1773, you have all the circumstances which I have stated, and one more to which no answer has been given and no answer can be given; I mean, that Mr. Hastings, who had been charged with receiving bribes from Nundcomar, who had been charged with receiving bribes from Munny Begum, when, by the unfortunate act of God which happened in that country, when by the death of Colonel Monson and General Clavering he was restored to real power, one of the first acts of that power was to restore Munny Begum to that situation from which, with the approbation and by the direction of the Company, she had been deposed. To restore Munny Begum and Raja Goordass! This would have been an act substantially criminal in my opinion in any person; but what was it in Mr. Hastings?—a direct avowal of those bribes and those presents which had been imputed to him.

Reappointment of Munny Begum and Raja Goordass conclusive evidence of Mr. Hastings' guilt.

Mr. Hastings knew that it had been urged against him that Nundcomar—for in this purpose Nundcomar and Raja Goordass may be identified—had charged him with a bribe in 1772, at the time of investing the Begum with the guardianship of the Nawab. He knew that a letter had been produced—whether true or false, but which he had the means of falsifying if it were false, and he did not falsify—from

20 May 1794. Munny Begum, directly stating that she had made him considerable presents, or given him considerable bribes. He knew that this had been stated by Nundcomar; that this had been stated by Munny Begum. He had himself transmitted a letter where it was mentioned as a fact alluded to in conversation between Mr. Goring, Chyton Durr, and Raja Goordass himself, that these bribes had been given. What does he do? Does he feel that indignation that a person would naturally have felt at a profligate woman and a wicked minister coming to accuse him of receiving bribes of which he was innocent, or presents which he could not receive according to law and his duty? What does he do? Does he declare these people wholly unworthy, and strike them out of the lists of persons that ever could be employed in the service of the Company? No; quite the contrary. The moment he regains his power, the first act of his power is to reinstate his accusers in situations of great public trust, power and emolument, either as a reward of the former bribe or as a means of repressing and preventing any future discovery of it—or, possibly, for the purpose of receiving new ones.

But is it possible to reconcile that act with innocence? Have the Counsel attempted it? No; they have followed that excellent precept which, though it is a precept given for poetry, is much more applicable to the great question we are discussing.

["Et quæ
Desperat tractata nitescere posse, relinquit."]

When he comes upon the subject of the re-appointment of Raja Goordass, this is a subject upon which his abilities and ingenuity furnished him nothing solid—no, nothing even specious—to state to your Lordships, in which it would have been possible to have stated the conduct of Mr. Hastings as consistent with innocence—as consistent with honour; and therefore what does he do? He follows that excellent example of his client at Calcutta, and treats it with complete silence!

Many of your Lordships have been or are in situations of trust in this country. Most of you know, I am sure, that, notwithstanding the just character for purity which the great officers of this country have, yet there are absurd and misled people who may believe the contrary, and have had the audacity at different times, through different channels, to offer

improper modes of applications to persons in great offices. What has been done upon such an occasion? We all know that, near the commencement of this reign, a noble Duke, whom I do not now see in this house—I mean the Duke of Grafton—had some proposition of an improper kind made to him. Did anybody suppose that that lessened the character of the noble Duke in any degree? No; his character did then and always will stand deservedly high and deservedly esteemed in this country. But did he employ the man who had offended him thus? No; quite the reverse. He prosecuted him for the attempt; and publicly proved, what undoubtedly in his situation wanted no proof, that he was above any corruption of so base and dishonourable a kind. 20 MAY 1794. Case of the Duke of Grafton.

But supposing he had not gone that length; supposing he had done, what possibly many others in similar situations may have done—treated an attempt of that kind with the contempt it deserved? I will put it to your Lordships:—if any person—a Secretary of State or other great officer in this country—had had such an application, he might have done as the Duke of Grafton did—have rejected it and have prosecuted the person who made the offer; but this, I believe, would be the first thing he would do—he would make a minute of the name of the person who made that application, and, in case it could, from the obscurity of the person, possibly have escaped his memory, he would give it his secretary or some other confidential person, and say—"Take care that no application from that person shall ever be attended to." That would have been the conduct of any man of honour. What was the conduct of Mr. Hastings?

He might say, "it is not true that Munny Begum has offered me a bribe." May be not; but it is in evidence before your Lordships that she said she had; that, in a paper purporting to be a letter from Munny Begum—I will not strain it one bit—that, in a paper purporting to be a letter from Munny Begum, it is stated that she had given money to Mr. Hastings. It is proved that Nundcomar stated he had given money to Mr. Hastings. What does Mr. Hastings do? Not pursue the rule which would be obvious, and say,—"It may not be worth my while to go into a public inquiry upon the subject, but I will at least avoid suspicion. It shall be my object that neither Munny Begum nor Rajah Goordass shall be employed, during my administration; or, at least, not till I have been completely cleared of the accusation which now stands, either against me for

20 May 1794. accepting a bribe, or against them for the still worse crime of having imputed a bribe to me of which they know I am perfectly innocent."

Duty of Mr. Hastings to sift the charges of corruption brought against him.

I have put the case as if there was positively a letter from Munny Begum; but I beg to be considered as not stretching that one inch beyond the point to which it will fairly go. Suppose the letter not to be a letter from Munny Begum: it is in evidence before you that a letter purporting to be a letter from Munny Begum was brought before the Council. I will suppose it a forgery—that it is a letter of which Munny Begum never heard; what then? Could your Lordships believe that, such a forgery having been produced upon the Council table, an account of it having been transmitted to England, the Directors knowing of its supposed existence, the House of Commons knowing it, the people of England knowing it, Mr. Hastings in such a situation should reappoint Munny Begum, without previously putting this question to her:—"There was a letter purporting to be yours: state whether it is yours or not. If it is true it was yours, answer to me for the false accusation which you have lodged against me; why you have charged me with the receipt of sums which neither you disbursed nor I received. If it is a falsehood, let us have your declaration at least that it is a falsehood. Let us, if possible, detect the authors of that forgery; and, if it turns out to be Nundcomar, who has been executed for a crime of a similar nature, let us prove that it is a forgery; and do not think I can appoint you to an office of trust while there remains an accusation, purporting to come from you, which I have never contradicted, and which you, it seems, are not ready to disown and prove to be the forgery which it is?" I say he must have put that to Munny Begum. It is not in the nature of things that he should not; unless he be that which is in other parts stated to be the reverse of his character—unless he be a man wholly indifferent about his reputation, and indifferent about it in some of these nice points that touch men of honour most nicely—pecuniary corruption.

Recapitulation.

This woman under these circumstances he appoints to this trust, responsibility and confidence; and this is one of the first acts he does after he reassumes the power. He appoints, in the first instance, the step-mother instead of the mother or uncle. The appointment of Goordass was in effect the appointment of Nundcomar, who, according to his subsequent opinions, was a man wholly unworthy of trust. He was

rewarding him before he had done anything worthy of reward, contrary to the directions of the Company; putting him in the place of his son—a place of power and trust; giving thirty-two lacs, when the Company ordered him to give only sixteen; hearing constantly from the Council the reproaches of his bribes, and yet never venturing to deny them upon honour or upon oath; and, lastly, he reappoints the Begum and Raja Goordass, after the accusations that had been laid against him, to offices of power and trust, and that in the direct defiance of the orders of the Company who had dispossessed them of these offices! How these things can be consistent with innocence I leave your Lordships to determine, and whether it is not the precise conduct that must be the natural consequence of guilt, and that conduct which it is morally impossible could have been the conduct of innocence and honour. 20 May 1794.

The receipt of these presents criminal.

I need not, my Lords, further observe, upon this part of the business, that it is altogether free from the observations which are made upon the subsequent part, and that, if your Lordships are satisfied that these presents or bribes—call them what you will—were taken by Mr. Hastings, it is not pretended that they were carried to the account of the Company at least; that, if these were taken, they were presents in the sense which the gentlemen on the other side admit to be illegal and criminal, and not in the sense which they have endeavoured in the subsequent part of the Charge to defend.

Receipt of presents subsequently to the Act of Parliament.

I now come to that part of the Charge which relates to presents taken subsequently to the Act of Parliament. And here I hope I shall be able very shortly indeed to convince your Lordships that the Act does bear the sense which we stated at the outset of the prosecution, and that it cannot be perverted to that sense which the learned Counsel has endeavoured to impose upon it. We state the Act to be a complete prohibition of the receipt of presents by the servants of the Company. The Counsel on the other side state it, not to be a prohibition of receiving presents *simpliciter*, but to be a prohibition of receiving presents and retaining them for their own use and benefit: conceiving that it is still—or rather, that it was, after the passing of that Act—legally competent to a servant of the Company to receive money in his own name, privately, and according to the sense of the donor for the use and benefit of him, the receiver, provided he did not retain that sum, but afterwards paid it into the hands of the Company.

Meaning and intent of the Act.

20 MAY 1794. My Lords, I will trouble you but shortly upon this. I should have hoped that the bare statement of an Act of Parliament so contrary to all principles of common sense, all principles of morality—so tending directly to introduce fraud and corruption—so tending directly to provide a veil and a cover for every fraudulent practice that might be used—could never have passed the Legislature of Great Britain. If such an act had passed, I think the true title for it would have been—"to prevent the discovery of bribes received by the servants of the Company; an Act to afford a veil, a pretence, and a colouring to any such servants of the Company as might at different times be disposed to receive money." But, in point of fact, no such absurd Act passed. The Legislature passed an Act express and distinct as English words can make it. My Lords, when I heard the statement of the learned Counsel on this Act, being naturally inclined to credit statements made in public especially, I conceived that he stated it fairly, and, according to his statement of it, I differed with him with respect to the interpretation. I thought that he stated it thus:—that the Act prohibited persons from receiving presents, either by themselves or others, for their use and benefit; and that he meant to connect that clause "for their use and benefit" with the whole of the sentence, and that he meant to say, that, when an Act says, I shall neither receive by myself or by another for my use and benefit, that these words "use and benefit" apply to the first part of the clause, in which he is forbidden to receive by himself, equally as to that part of the clause in which he is forbidden to receive by another. I thought that a strained construction of the Act; for, if the Act had been so worded, I should have said the meaning of it is clearly this:—that I should not receive by myself nor by any other for my use and benefit: in other words, I should neither receive by myself nor any agent for me. And, taking the words of the Act upon the gentleman's statement of it, and giving him credit for a fair statement, as I certainly did so late as this morning—I am ashamed to say it, for I ought to have been completely master of the subject before, I did come down to this Hall prepared to argue that if the words had been as stated by the gentleman, if the words had been—"not to receive by themselves or others for their use and benefit,"—the fair construction was, to apply these words, "to their use and benefit," merely to receipt by others, and that it is in another way describing agency, and to say, that a person

should not receive by himself or others. When I did come down to this Hall, not having this statute at home, my first duty was to look at it here, and when I did look at it I found to my great satisfaction that the words were not those that were stated by the gentleman. When I say satisfaction at this, I do not mean the satisfaction of having surprised him in any inaccuracy, but I mean so, because it saved me the trouble of an argument which might be long, and your Lordships the trouble of attending to it. The words are perfectly distinct, and therefore leave no room for a construction upon the subject, either of the sort the honourable gentleman applied to it, or the sort which it might have been my purpose to have applied to it. 20 MAY 1794. Misquotation of the Act on the part of Counsel.

"And be it further enacted, by the authority aforesaid, that, from and after the first day of August, 1774 [no person holding or exercising any civil or military office under the Crown or the said united Company in the East Indies, shall accept, receive or take, directly or indirectly, by himself or any other person or persons on his behalf, or for his use or benefit, of and from any of the Indian princes or powers, or their ministers or agents, or any of the natives of Asia, any present, gift, donation, gratuity or reward, pecuniary or otherwise, upon any account or on any pretence whatsoever; or any promise or engagement for any present, gift, donation, gratuity or reward]; and if any person holding or exercising, *etc.*"

So that the words were not as the gentleman stated them, but there is a disjunctive—and an emphatical disjunctive—in the case, and the words are, that he should not receive, "directly or indirectly, by himself or any other person or persons on his behalf, or for his use or benefit;" not saying that he should not in the first instance receive for his use and benefit, but it is by way of drawing the line stricter, and of avoiding all possible evasion—but he should not take by another, not only in his behalf directly, but what may ultimately or circuitously be for his use or benefit. So that that clause is meant to draw the line stricter; that he should not take by another, in any indirect manner, for his use or benefit.

These very words of the clause which are meant to bind the cord tighter, to prevent and to anticipate the possibility of any evasion of any nature whatever—these words are tortured by the learned gentleman by the inaccurate omission of the word "or;" they are tortured to be, not, as I stated them to be, words to make the clause more binding and to extend it to two more possible cases, they are taken to be, not a restriction of a person by the operation of the clause, but a virtual permission Perversion of its meaning.

20 May 1794. for any man to take, provided he does not take directly for his own use and benefit; perverting, not only all the sense which philology teaches us of words, but going as contrary to the popular as to the more learned sense of the words; this word "or" meaning in this case exactly by its application what that conjunction does mean —a disjunctive; and, as applied in this case, meaning to state a further case in which this is prohibited, and not meaning to limit the case before stated in which it was before prohibited. It does not say, you shall not take that directly or indirectly on your own behalf, for your own use or benefit; because it might have been argued, though I think falsely, that that was a limitation of the anterior prohibition, because they were words added to it. But what is it? It is a disjunctive, and it says, you shall not take it in that case nor in another case which I will state. It is, therefore, an extension of the prohibition beyond what is contained in the words before. These were added to another case, and are not a limitation of the restriction within what had been before limited. Suppose the words had run thus, for instance—"no person shall accept, receive or take, directly or indirectly, by himself, or any other person on his behalf," without these words "of or from any of the Indian princes or powers;" would they then have contended that any of these presents could be taken? They have not contended, and I should think it impossible they should.

Then I ask your Lordships, upon every principle of grammatical construction, whether you take it, as I said, learnedly or popularly, whether you consider an Act of Parliament with the learned or according to the popular meanings, if, when I am distinctly prohibited by law from doing so and so, you add "or" to it afterwards, whether that must not be an extension of the prohibition, and not a limitation upon the anterior prohibition which existed in the former sentence? It is a point so plain I feel a difficulty in arguing it, because, when I have stated it, I state that which is a self-evident rule, and which cannot be so well illustrated or elucidated as by stating it in the case itself and upon its simple principles—that, when I have prohibited a thing, whatever I add by disjunctions afterwards states something else that is prohibited, and cannot limit or restrain the sense of the former part of the sentence and limit the prohibition contained in it.

I, therefore, beg leave to refer your Lordships to what

was said in the outset upon the question of these presents—that, if it were not that the crime of misdemeanour is not like that of felony or of treason, or other crimes to which there is an appropriate punishment—if it were not for the nature of the crime of misdemeanour, I should have troubled your Lordships in summing up this evidence some years since, and I should trouble your Lordships now, with very little indeed; because I contend that we have nothing to do but to produce Mr. Hastings' letters, stating the receiving these presents, and from that moment your Lordships cannot, without a violation of that sacred honour which binds you to do justice—you cannot pronounce otherwise than guilty upon this Charge. 20 May 1794.

Mr. Hastings' admission of the receipt of presents.

But, my Lords, that is not all. If it were felony, the law prescribes the punishment: the same of treason. But, when a man is guilty of a misdemeanour, the punishment may be heavier or lighter according to the circumstances that attend the crime; and I am very willing to admit that, though Mr. Hastings would be guilty and deserve a grave and severe punishment indeed, if we had nothing more to say upon the subject, and if we only proved the simple receipt of this money, and admitted that he received it with the intentions which are stated, and applied it to the uses to which he should afterwards have applied it, though in such a case he would be liable to—and I hope in your Lordships' justice he would receive—a severe, an exemplary, punishment, I admit that it would be, comparatively speaking, a less crime than that which we do impute to him and have proved against him—I mean, the receipt of this for corrupt purposes; in many instances, without any intention whatever of applying it to the purposes of the Company; in none of them absolutely proved to be for that intention; and, in many of them, attended with circumstances which prove to any rational mind that they were received for his own use—for the purpose of enriching himself, and not of serving the Company.

Variable nature of misdemeanours.

Circumstances of aggravation attending the present Charge.

But, for fear of being supposed to have given an inch of ground upon the construction of this Act, I beg to say that all I offered to your Lordships formerly, and do now offer, is, strictly speaking, matter of aggravation. The Charge is not necessary for the verdict, and if this were before a common court of law, instead of the High Court of Parliament—if it were in a case in which the jury were to find a verdict and the court to pronounce the sentence, I would

20 May 1794. not have brought before that jury one word of the evidence upon the subject of his intention of reserving it to himself. I should have thought it sufficient to finding him guilty, to prove he received it contrary to the statute; and I would produce, in aggravation of that charge, before those who are to apportion the sentence to the guilt, the evidence which we have produced; and I should comment upon the circumstances under which he received the presents and the use he intended to make of them. My Lords, the remaining presents are many in number; several of them stand upon grounds similar and some upon grounds somewhat distinct. It has been suggested, as my being able to finish to-day is out of the question, and as this makes a natural division of the subject, that perhaps your Lordships would wish me stop here:—otherwise I am ready to go on.

CONCLUSION OF THE SPEECH OF THE RIGHT HONOURABLE CHARLES JAMES FOX, MANAGER FOR THE HOUSE OF COMMONS, IN REPLY UPON THE SIXTH, SEVENTH AND FOURTEENTH, ARTICLES OF THE CHARGE, RELATING TO PRESENTS; 21 MAY, 1794.

21 MAY 1794.

MY LORDS,—Before I proceed to the other matter upon which it is my duty to trouble your Lordships, I wish to say a word to remove some confusion that may have arisen, possibly, in your Lordships' minds, from a circumstance which is somewhat singular, but which in my opinion does not affect the reasoning on one side or the other of the question: I mean, with respect to the construction of the Act of Parliament of the 13th of the King. I meant undoubtedly to quote perfectly fairly the manner in which the learned Counsel on the other side have stated and argued that proposition. I have since some doubts suggested to me whether I have done so. I have looked again into the business, and I find that the confusion arises from this circumstance;—we stated Mr. Hastings to have acted in disobedience to the 24th section of that Act: the Counsel on the other side, from the word "Governor General" being mentioned in the 23d section, concluded that it was to the 23d section which we applied. All their reasoning, therefore, has gone upon the interpretation of the 23d section, the wording of which is somewhat, though I am confident not materially, different from the wording of the 24th section. In the wording of the 23d section, the words, "for his or their use and benefit" do precede the words "or on his behalf." In the 24th it is the reverse: it is "on his behalf, or for his use and benefit."

Mistake of Counsel as to the section of the Act referred to by the Managers.

That there can be no material difference from the placing of these words your Lordships will see in a moment; because, if there is a difference in the import of the words "on his behalf," it is as much forbidden in the 23d section to take a present on his behalf, though aided by the disjunctive "or," as if it had appeared in the first part of the clause. But, in order to relieve your Lordships from all trouble that may

21 MAY 1794. attend an investigation of these words, we think we have an undoubted right to contend that the Governor General was as much bound to obey the 24th section of that Act as he was the 23d; for, though the Governor is named in the 23d and not in the 24th section, the 24th section applies to the comprehensive description of "every man who bears" —I believe the words are—"any civil or military office in India, either under the Crown or under the Company." And therefore, if the construction which I have put upon the 24th section be a good and valid one, the Governor General, being a civil servant under the Company in India, was equally bound to obey the 24th as he was the 23d section of the same Act. And the only reason I have for troubling you with these few words upon the subject is, lest it should be conceived possible that I had an intention of doing that which was perfectly foreign to my mind—that I was misrepresenting or arguing from any misquotation of what the Counsel had said on the other side. It was the 24th section I relied upon when I summed up this business formerly, and the 24th section which I relied upon through the whole of this business; and, by looking at page 967 of the printed Minutes, you will find it so stated. I shall, therefore, say no more upon the construction of this Act, but take it for granted that your Lordships are fully satisfied that it was an Act prohibiting, not the retaining presents for his own use, but prohibiting the receiving presents, by Mr. Hastings or any other servant of the Company.

Both sections equally binding on the Governor General.

The 24th section relied on by the Managers.

But, my Lords, before I quit this subject of the Act of Parliament, I would wish your Lordships to advert to Mr. Hastings' Defence at your Lordships' bar, upon this particular point. Without admitting that he has acted in violation of the law, he contends that such a violation would be, if not justifiable, at least excusable; because we must consider, not what the Act really imports only, but what was the construction which he must naturally have put upon such an Act. I need not remind your Lordships that *ignorantia legis neminem excusat;*—of the solid foundation of that principle, which if it were not to prevail, every case of disobedience of an Act would remain almost upon the same footing as if the Act had never passed; because it always might be pleaded, and in many cases it might be contended with some plausibility, that the delinquent had put a different construction

Pretended misconstruction of the Act on the part of Mr. Hastings.

upon the Act than that which the words naturally import, and which the Legislature had given to it at the time they passed it. This is a matter so universally recognised that the Defendant in his Defence thinks fit to acknowledge and recognise it; but, he says, that must apply to a case in which there is room and means for information; that he had no means of any such information, and that his error, if it were one, was therefore excusable. 21 MAY 1794.

He states further that, if he has been in an error, he has been in an error upon this subject in common with all other persons "with whom"—as he emphatically expresses it—"he either had an opportunity of conversing or corresponding;" and consequently, I suppose, the inference meant to be drawn from that part of the Defence is, that, if his misconstruction—supposing it to be one—of that statute will not be a justification of him, at least it ought to be considered as some degree of an excuse and an extenuation of the crime of disobedience to an Act of Parliament. Alleged prevalence of the error.

I wish your Lordships to attend to the words of Mr. Hastings' Defence upon this point; and, harsh as it may sound, I shall be obliged to observe, both with respect to this part of the Defence and with respect to other parts to which hereafter I may be obliged to allude, that Mr. Hastings in his Defence—it is in this case a species of fact and not of law, for I have nothing to do with his argument of how far and to what degree ignorance does excuse, but I am speaking of his fact of whether he could be in that state of ignorance which he would wish your Lordships to suppose—that, in all that he states, in point of fact, upon the subject, there is not one word of truth, but the direct contrary is proved, unanswerably and irrefragably proved, by the evidence upon your Lordships' table. I will read to your Lordships the words of the Defence. Part of the reasoning is singular; but the facts I wish your Lordships particularly to attend to with respect to having violated the Act of Parliament. Falsehood of the plea.

"I do by no means [admit that I have done it. That depends not upon what I have done, but upon what your Lordships may do—that is, upon what construction your Lordships may put upon the disputed clause. I can only say that I interpreted it to the best of my judgment; and, if I have erred, I have done so in common with many others. No person ever suggested to me that the Act of Parliament deprived the Company of the right of receiving the customary presents, till I heard that interpretation from some members of the House of Commons. My Lords, I should think it impossible for your Lordships to fix any criminality upon incurable ignorance. I say incurable, for though your Lordships should punish me in the severest manner for this mistake, the Extract from Mr. Hastings' Defence.

21 MAY 1794. example can be of no use to the present generation or to posterity, for you can never give a common understanding the powers of diving into the latent meaning of an obscure clause in an Act of Parliament, a clause of which its real but latent meaning is at variance with its grammatical construction. But a criminality of this nature must depend as well upon the understanding of the judges as of the party accused; for it is possible that his interpretation may be right and theirs wrong.

"But, my Lords, I have two observations to make, either of which alone would be a full answer to the point of criminality. First, that there can be no criminality in unavoidable error; for, though it is a maxim in law that ignorance is no excuse, it goes upon this supposition that information was possible, which in my case it was not. Secondly, that *communis error facit jus;* for everybody that I had occasion to converse or correspond with seemed to understand the clause in the same light as I did. I must here conclude my comment upon this Article, with again declaring the purity of my intentions; that I accepted the presents for the good of my employers; and that I employed them in their service, at a time when the Government of India was distressed] beyond the power of description."*

Your Lordships will here observe that he states again more distinctly the impossibility that he had of information upon this subject. He says:—"every body that I had occasion to converse or to correspond with seemed all to understand the clause in the same light that I did." Now I ask the Defendant only this question:—Had he occasion to converse with General Clavering, Colonel Monson and Mr. Francis? Had he occasion to correspond with the court of Directors? He seems to have used these words as if for the purpose of affixing falsehood to this declaration of his: he says:—"all those with whom I conversed considered it so."

Mr. Hastings' interpretation opposed by Gen. Clavering, Col. Monson and Mr. Francis;

General Clavering, Colonel Monson and Mr. Francis, with whom he had daily opportunities and with whom his duty daily forced him to converse, did express a different sense of the Act. All with whom he corresponded, he says, expressed the same sense he now endeavours to put upon it. The court of Directors, with whom he did not occasionally, but with whom he was in duty bound constantly to correspond, did give their sanction to the sense put upon the Act by General Clavering, Colonel Monson and Mr. Francis; and therefore those with whom he did converse, those with whom he did correspond, did the very reverse of what he says. They did not seem to understand it in the light in

and by the court of Directors.

* Address of Mr. Hastings in defence upon the several Articles of the Charge; delivered in Westminster Hall, the 2d of June 1791. Printed in the present publication, vol. ii. p. 503.

which he now pretends, but did specifically declare their understanding of it in the way in which the Managers in this box contend that it should be understood. 21 May 1794.

My Lords, for this purpose I must refer you to the printed Minutes of the Evidence, page 1261.—

"The Managers for the Commons stated, they next proceed to show that it is the opinion of the court of Directors that, even when small presents were taken and carried to the account of the Company it was a thing that ought not to be done."

We stated this evidence for the mere purpose of showing the opinion of the court of Directors, but, in the course of showing that opinion, we showed those facts which contradict the recent assertion of Mr. Hastings.

"At a Council, present the Honourable Warren Hastings, Governor General, President, Lieutenant-General John Clavering, Richard Barwell, Philip Francis, Esqs.; Colonel Monson indisposed." The legality of receiving presents discussed by the Council.

I was wrong when I used his name;—I find General Clavering and Mr. Francis;—

"The Governor lays before the board two bags; one containing 146 gold mohrs, the other containing 327 rupees of different sorts, which were presented to him in nizzers, by different persons, from the 1st of August to the 31st of October. He has not thought it proper to discontinue the custom, but has accepted the presents on behalf of the Company; meaning to deliver for their use, at the end of each month, the sums so received by him in the course of it, which in his opinion will be preferable to an abrupt rejection of such offers, which are intended by immemorial usage as pledges of respect and submission and accepted as an implied assurance of protection. He submits his intention in this respect to the judgment of the Council, and will readily correct it, if they shall deem the subject of so much importance as to prescribe a general rule of conduct more conformable to the design and letter of the late Act of Parliament."

By which it would seem, my Lords, if even his opinion were the opinion upon which I was relying, that he had adverted to the Act of Parliament in the view in which we advert to it; and that it struck him, even at that time, that the rejection of these nazars, instead of accepting them for the use of the Company, might be more conformable to the letter and spirit of the Act of Parliament. However, this may be stated to be only a suggestion and not a determined opinion given by him.

"Ordered, that the money be sent to the cash and carried in account to the Company's credit under the head of nuzzers; and that whatever sums be hereafter tendered to the Governor be received and credited in the same manner." General Clavering now speaks:—"The General conceiving it to be the intention of the legislature that the Governor General Adverse opinion of Gen. Clavering.

21 MAY 1794. and members of the Council should receive no presents, either from the Indian powers or any powers whatever, he has strictly complied since his arrival here both with the spirit and the letter of the Act, and has accordingly"—

what?—transferred to the use of the Company?—No! but has accordingly—

"returned all the presents which have been made to him."

And of Mr. Francis.

Mr. Francis delivers his opinion on this subject in the following words:—

"I have not yet received, nor do I intend to accept of, any nazar or present whatsoever. The prohibition in the Act of Parliament appears to me so strict that I think no choice is left to my own discretion. This, however, is a point which every gentleman will judge for himself, and I do not mean to impute the least impropriety in any opinion that may differ from mine upon the subject."

Yet, having heard this opinion of General Clavering, Colonel Monson and Mr. Francis, the Defendant has—I do not know what to call it but—the audacity, to state at the bar of this House, that all with whom he conversed were of opinion with him that this Act did not prohibit the receipt of such presents; that all with whom he corresponded were of a like opinion; and that, if he was in an error, it was an error incurable, because it was upon a subject in which he had no means of getting further information. Mr. Barwell delivers in a minute which, undoubtedly, does not contain any opinion resembling that which we profess, or General Clavering or Mr. Francis professed upon that occasion.

In page 1262,

Their determination is confirmed by the court of Directors.

"The Commons produced evidence to show that the Company approved of the determination of the majority of the Board last read in evidence.

"Read the following extract from the printed Minutes of Evidence, beginning page 971 of the same, extract of a separate general letter from the court of Directors to the Governor General and Council at Fort William in Bengal, dated December, 1775:—

"'As the custom of receiving complimentary nizzers or presents is not only liable to abuse, but is also contrary to the late Act of Parliament for regulating Indian affairs, we much approve the determination of the majority to refuse all such presents, and direct that strict obedience be paid to the said Act, not only by all the members of our Council, but by every person in our service, and by all British subjects residing in India under our protection.'"

Your Lordships will advert to those words,—that they conceive the practice, "not only liable to abuse, but contrary to the late Act for regulating Indian affairs." And then Mr. Hastings says, that, not only from those with whom he conversed, but those with whom he corresponded,

he conceived an opinion that they all interpreted the Act in the way in which he for his defence is forced to interpret it—that the receipt of presents was not contrary to the Act of Parliament, and that the Act only meant to prohibit the retaining such presents for the use and benefit of the receiver, and not the original acceptance of them! 21 May 1794.

I really am sorry that I am in a stage of the proceeding where the gentlemen should not have had, at least, an opportunity of answering upon this subject. They have had one; they were wise enough to neglect it. They have had an opportunity of discussing this evidence, which was brought, not in reply, but originally in the beginning of the prosecution. They heard the defence of their client; they heard his assertions. They were too wise to repeat those assertions or to found any argument upon them whatever. You had those matters before you then, and it is not attempted by signs or tokens to convey to this House that it is possible to give an answer to this evidence—that your Lordships will be deceived; because, if ever there was a matter of fact plain, if ever there was a man detected in absolute falsehood more clear than another, it is this Defendant in this part of his Defence, who states distinctly;—

Incompatibility of Mr. Hastings' defence with the evidence adduced.

> "Everybody that I had occasion to converse or correspond with seemed all to understand the clause in the same light that I did, which is, that it is not a prohibition of accepting, but a prohibition of retaining for his own use;"

And yet those persons, namely, General Clavering and Mr. Francis, with whom he was obliged to converse, did directly quite the contrary: they stated the receiving such nazars to be contrary to Act of Parliament. And those with whom he corresponded, namely, the court of Directors, did approve of that opinion, and did emphatically say that this custom is not only liable to abuse, but also contrary to to the late Act of Parliament for regulating Indian affairs, viz., that very Act of the 13th of the King upon which we have been reasoning.

My Lords, this is one of the many instances which occur in this business, that, in the variety of accounts of facts of any kind which Mr. Hastings has given, either in his Defence at the bar of the House of Commons, or in his Defence at your Lordships' bar, there is this striking circumstance—almost incredible, considering the quantity of facts which have been in discussion—that there is not one fact which he condescends to state, except in what he confesses, namely, the

General inaccuracy of Mr. Hastings' assertions.

21 May 1794. receipt of the presents, upon which he does not appear either to have been inaccurate or intentionally false.

Recapitulation.

My Lords, I have now, therefore, I hope, satisfied your Lordships, not only what was the meaning of this Act, but have satisfied your Lordships that Mr. Hastings' pretended ignorance with respect to the meaning of this Act—that Mr. Hastings' pretended incapacity of gaining better information—that Mr. Hastings' pretence that his opinion, if an erroneous one, was an error in common with all with whom he had an opportunity of conversing or corresponding—I hope I have satisfied your Lordships that these are all pretences; that the Act is clear and binding; that it appears by Mr. Hastings' first minute, that, when he accepted the nazars, he himself rather considered the practice as contrary to the Act, since he says that he should be ready to submit to any arrangement which may seem more consistent with its spirit and its letter; and that if he had had any doubts upon the subject, General Clavering and Mr. Francis still more emphatically state their opinion of the inconsistency of this practice with the letter and spirit of the Act; that this consultation is referred to the court of Directors, and they pronounce the same opinion; and that therefore, instead of having no opportunity of informing himself better, he had that opportunity. It was offered, and he did, in point of fact, know not only that the opinion of individuals, or of this and that man, was different from his own, he knew the opinion of the majority of the Council to be different from his own, and he knew that of the Directors to be different from his own:—I mean by his own that which he is now driven to profess, not that which he then seemed to entertain. I therefore have, I think, perfectly succeeded in proving criminality upon the subject of these presents, if I were to sit down here and go no further; but it is impossible for me not to advert to the circumstances which attended the receipt of the individual presents. However, in the first place, I shall think it necessary only to refer your Lordships to what we proved in the outset of this business.

Enumeration of presents received by Mr. Hastings.

We proved the receipt of a present of two lacs from Sadanund. We proved the receipt of a present of three lacs actually received, and four engaged for, from Dinagepore. We proved the receipt of one lac and a half from Nuddea. We proved the receipt of two lacs from Patna, with an engagement for two more. We proved the receipt of half a lac from Nundulol. We proved the receipt of ten lacs from the

Wazir. We proved the receipt of three lacs from Nobkissin. I believe I have enumerated the principal articles which we proved before your Lordships. 21 MAY 1794.

In answer to these accusations various defences are set up; but, before we go into the particulars of each present, perhaps it may answer the purpose of clearness better, first to answer the general answer given to each of these presents, and to answer to all of them except that by Nobkissin.

Defences set up on the part of Mr. Hastings.

The general defence is—first, that they were, in point of fact, appropriated to the Company's service. How far that is literally true, with respect to every one of them, I may have occasion to discuss; but, if the fact were so, I insist that it is no justification or even excuse. But there have been different defences set up. In the first place, it is generally stated that these were not taken secretly—perfectly secretly—in the manner in which a sort of men would have taken them; but he appeals to Mr. Larkins: he says,—

> "I trusted Mr. Larkins with this business. Whom did I choose for my confidant? If I meant to defraud the Company should I have chosen a servant of the Company,—should I have chosen the Accountant General of the Company for my confidant?"

And the very circumstance of Mr. Hastings having intrusted Mr. Larkins, as was supposed, with the fact of the receipt of this money, is stated as a presumption of his innocence. Unfortunately for Mr. Hastings, Mr. Larkins arrives in Great Britain. Unfortunately for Mr. Hastings, his Counsel are of opinion [not] to avail themselves of the means which were supposed to be in their power of preventing Mr. Larkins' evidence being heard by your Lordships. Unfortunately, they deemed that such an act would throw such a colour and such a presumption of guilt against their client that they did not dare persevere in the method which the situation of their client first suggested to them as fit to take.

Effect of Mr. Larkins' evidence.

My Lords, I do not know what the effect of such a concealment would have been. I do not know what impression might have been made upon your Lordships' minds, if the Counsel, after having referred almost the whole of their defence to Mr. Larkins, had availed themselves of the situation of the cause to prevent your Lordships from hearing Mr. Larkins' evidence. What the effect of such a conduct would have been I do not pretend to determine; but I do presume to say that the effect of the examination must be completely fatal to Mr. Hastings' cause; that it cuts up by the root the whole principle of that defence; that every fact

21 MAY 1794. which has been advanced upon that subject upon conjecture turns out to be false; and that, in point of fact, with a single exception—and upon which, when I come to particular presents, it may be necessary to comment—with the single exception of the present from Sadanund, Mr. Larkins was no more his confidant than your Lordships were, or I was, or any man in Europe or England was his confidant.

Mr. Larkins "who knew of these transactions all along," says Mr. Hastings in one part of his Defence, "who knew them from the first," who "knew every process of a particular business"—as he says in his letter from Cheltenham—Mr. Larkins has been heard upon oath at your bar, and, with the exception of the present from Sadanund—I do not at least recollect any other exception; for there is an exception of one that will not prove anything against the general observation—he denies upon oath at your bar, except that single present, that he had ever been trusted by Mr. Hastings with any one particular respecting these presents—till when?—till the 22d of May; that is, till Mr. Hastings wrote a public account of these presents to the court of Directors. Then what was Mr. Larkins entrusted with?—the secret of receiving these presents? No; he did not know that they were received. Was he trusted with the secret of the application of these presents? No!

He denies having been privy to the receipt of the presents.

So, instead of being the confidant of the secret and of the guilt, he was only the confidant of the discovery and of the confession of the guilt. He never was entrusted by Mr. Hastings till Mr. Hastings wrote a letter to the court of Directors, which from the nature of it must be sure to be made public in England as soon as received; and, except the circumstance, that he knew the contents of the letter when it was written and we knew it when it was received in Great Britain, we were in as early confidence with Mr. Hastings as Mr. Larkins could have been.

Your Lordships find, therefore, that that material part of the defence upon which so much rested—I mean, the presumption of innocence in favour of Mr. Hastings from his confidence in Mr. Larkins—is utterly and completely destroyed, if you believe Mr. Larkins upon his oath, who, being interrogated and cross questioned, being asked by one side and the other, repeatedly answered upon his oath, that, till the 22d of May, he could not bring to his recollection that Mr. Hastings ever gave him any account of these matters, the account of which is annexed to the letter of the 22d of May.

21 MAY 1794.

Of what other matters had he given him an account? The present of Sadanund I admit to be an exception; not the present of the Wazir, for he states also that he did not know of that present till the 22d of May. And therefore, in point of fact, he did not know that Mr. Hastings received this money from Dinagepore—Nuddea—Patna—Nundulol—the Wazir;—he did not know any one of these circumstances till the 22d of May, at which time Mr. Hastings thought it prudent to divulge this transaction; and, when he did know them, he knew them at the moment when Mr. Hastings was publishing them to all the world.

That of Sadanund excepted.

What therefore becomes of this pretended confidence? What inference is to be drawn from the situation of Mr. Larkins; from the honour of his character; from his duty to the Company? Nay, if he had confided to him, his duty to the Company in this case was out of the question; for Mr. Larkins has told you upon oath, that, though he was a servant of the Company, yet, when he was employed relative to Mr. Hastings' private transactions, he should have thought himself a base man indeed if he had disclosed them to any persons upon earth, either to the Company or any other person whatever. Mr. Larkins has declared that to be his sense of his duty, and therefore, no matter whether that be—which I do not believe it is—his duty or not, Mr. Larkins conceiving that to be in the nature of his duty, I say, that, even if there had been any confidence reposed in him, no presumption in favour of Mr. Hastings could have arisen from such a circumstance.

But, my Lords, the fact really was otherwise; for you have it upon Mr. Larkins' oath at your bar that he never knew of these transactions, till the time when Mr. Hastings thought it wise and prudent to disclose them, not to Mr. Larkins in confidence, but to the court of Directors, and, through the Directors, to the Parliament and the people of Great Britain.

Confidence alleged to have been reposed in Mr. Larkins.

My Lords, this is exceedingly material for your Lordships to attend to, because I am sure that, during the four days which the learned Counsel employed in his defence upon this subject, there was hardly a quarter of an hour in the whole course of this defence—I mean the part of it [bearing on presents taken] subsequent to the Act of Parliament—where there was not, as a kind of burthen of a song, a continual reference to this confidence of Mr. Larkins—a man of such exemplary honour, and of high trust in the Company's service!—and an attempt at a presumption of

21 MAY 1794. innocence on account of such a confidence. But that is not all: it does not rest upon the argument of the Counsel only. Here again I call your Lordships' attention to the account of Mr. Hastings, both in his Defence and in his letters—page 1152 of the printed Minutes. In Mr. Hastings' letter from Cheltenham, alluding to parts of the letter which I hope are not out of your Lordships' memory, but which it would be too much trouble now to repeat, he says:—

"Perhaps the honourable Court will judge this sufficient for any purpose to which their inquiry was directed; but if it should not be so, I will beg leave to refer for a more minute information, and for the means of making any investigation which they may think it proper to direct respecting the particulars of this transaction, to Mr. Larkins, your Accountant General, who was privy to every process of it and possessed, as I believe, the original paper which contained the only account that I ever kept of it."

"Who was privy to every process of it!"—first of all:—"who had the original paper!" That might be a mistake, and Mr. Hastings says he only believes it. Where he believes he is generally mistaken: where he asserts he is always false. He says, Mr. Larkins was privy to every process of it. Now what is the fair meaning of that expression? What was this transaction? Mr. Hastings received money from Dinagepore: Mr. Hastings received money from Kelleram: Mr. Hastings received money from Nundulol: Mr. Hastings received money from Nuddea: Mr. Hastings received money from the Wazir; and paying, as Mr. Hastings says, the money which he had so received into the hands of the Company, for the use of the Company, he seems, by the very word "process," to admit that this was a transaction which, if you look into it, had many stages in it. What was the first process? The receipt of the money. Paying this into the treasury—next. The taking bonds, where he did take bonds—the third process. The cancelling those bonds, where he did cancel them—the fourth. To every one of these processes, says he, Mr. Larkins was privy.

Process of the transactions.

Mr. Larkins not privy to the process.

Mr. Larkins tells you that he was not privy to any one of these processes, excepting the cancelling of the bonds, till the 22d of May. He knew nothing with respect to them. The money engaged for the kabulyat was given, if any exists, certainly as early as 1779. Did Mr. Larkins know in the year 1779 anything of this matter? No; the money was paid, as far as ever it was paid, by the end of the year 1780. Did Mr. Larkins know of the completion of the payment? No; he knew nothing of the matter. Mr.

Hastings took these bonds. Mr. Larkins knew the fact certainly of Mr. Hastings taking the bonds, but, so far from being privy to the process, he conceived Mr. Hastings to be taking bonds for money of his own advanced, therefore he was not privy to that process. In short, he was privy to no one part of this transaction, excepting the last part—the revealing it to the Company and the cancellation of the bonds, or, rather, endorsing them in the manner in which they were endorsed in the year 1782. But what besides does Mr. Hastings assert with respect to this confidence in Mr. Larkins? 21 May 1794.

Misstatement of Mr. Hastings respecting the endorsement of the bonds.

I must here remind your Lordships of a part of this business which it is impossible for the Defendant ever to get rid of;—I mean, his false assertion, in his letter from Cheltenham and in his Defence before the House of Commons, with respect to the time of endorsing some bonds. He stated that he endorsed those bonds in the year 1781, when he was going up to Benares; but he had a circumstance to help his memory at that period: he said,—

"I am sure it was then, because I did it with this view,—that, in case I should fall in that dangerous expedition, the Company might recover the money which really did belong to it."

My Lords, he says this fixed it in his memory, and he is certain that in 1781 he endorsed these bonds. When the bonds appear, it appears that they were endorsed in the year 1782, in the month of May! So that here you find another instance of these assertions of the Defendant, which generally turn out to be clearly false in proportion as they are asserted with positiveness and peremptoriness—that that which he did, as he says, at a particular time, and which he is sure he did at a particular time by recollecting the reasons which led him to do it, we find, in point of fact, was not done at the period he mentions; that it was not done prior to going to Benares, but after the whole business of Benares was completely over, and when he was not going, but had been long returned from, Benares, in May, 1782. He can never get rid of that.

Mr. Larkins ignorance of the bonds being the property of the Company.

But your Lordships will attend to the manner in which he attempts to get rid of it; because that is material, not only in general, but in the particular point of view to which I wish to draw your Lordships' attention; I mean, the false statement which he has made of Mr. Larkins' general privity and general knowledge of this transaction, from which privity, knowledge and confidence, so much innocence is

21 MAY 1794. presumed in his Defence at your Lordships' bar. He says he had left them with Mr. Larkins, to deliver them up in the event of his death. Mr. Larkins swears that, so far from being left in such a state with him as that he could have delivered them up in the event of his death, he never did know that it was the property of the Company, that Mr. Hastings thought it was the property of the Company, or anything relative to this transaction, till the month of May 1782. The Defence does not stop here. He says—

"So desirous was I that the statement of this fact [should not rest upon my assertion, that I desired a search might be made at the India House for those bonds, or the copies of them; but none were to be found. I then requested Major Scott to write to Mr. Larkins in my name, and to desire a search to be made for them in Calcutta, and if found, that they might be publicly transmitted to the Company. They were found: they were sent to the Company in 1789 by Lord Cornwallis at the express requisition of Mr. Larkins, who states in his letter, that he made that requisition at my desire, transmitted to him by Major Scott. But, to my utter surprise, the indorsement of the bond is not dated till the 29th May, 1782. After this fact, my Lords, I am as ready as any man to acknowledge that I have been imprudent, in a degree that merits some of the reflections so illiberally thrown out against me, for having written, as I have too often done, on matters of account in which I have myself been previously concerned, without having a single paper or document of of any sort near me at the time I wrote. For I admit it to have been well observed by the Manager who closed the Article of presents, that I not only affirmed I had indorsed the bonds in the middle of 1781, but had assigned a reason for so doing, namely, lest I should die during my absence from Calcutta. My Lord, after this I should be almost afraid to] hazard a supposition—"

Assertion to the contrary on the part of Mr. Hastings.

Now you will please to observe he does hazard a supposition—and that is false—upon something which, I suppose, is not a supposition; "and so you are to understand hereafter—

I should be almost afraid to hazard a supposition of any kind; but, as the bonds were left with Mr. Larkins as my attorney,"—

this is not supposition but fact, I suppose,—

"and as Mr. Larkins knew from the first that they were not my property, I conclude that I told him, in 1781, that, in the event of my decease, he should deliver them up to the Council."

In the conclusion, you will please to observe, for they are exceedingly material, the words of that sentence. He says, "I am afraid of hazarding any supposition, but I should rather think that I told Mr. Larkins, in the year 1781, in the event of my decease, to deliver them up to the Council, which I confounded with the act of having indorsed them."*

* Mr. Hastings' Address in his Defence; *supra*, vol. ii. p. 501.

But he is not contented merely with telling you that this is supposition: he states part of the ground of his supposition, and states, not as a supposition, but as a positive and substantive fact, that 21 May 1794.

"as the bonds were left with Mr. Larkins as my attorney, and as Mr. Larkins knew from the first that they were not my property—"

Here is another assertion, not a supposition but an assertion, upon which he grounds another supposition. What is the assertion? That Mr. Larkins knew from the first that they were not his property.

Mr. Larkins appears at your bar and directly by his oath contradicts that assertion. He says that, so far from knowing at first that they were not Mr. Hastings' property, he did not know that they were not his property till May, 1782. If he had no supposition of the kind, Mr. Hastings never told him anything upon the subject: and, in point of fact, he has sworn that he did not know anything with respect to them; that he always considered them as Mr. Hastings' property; and he could not consider them as otherwise. He has directly said that he knew nothing of this transaction till 1782.

General falsehood of his statement.

So here Mr. Hastings states some facts upon which he grounds a supposition. What are these facts? The fact that they were left with Mr. Larkins might be true; but the other fact is, that Mr. Larkins knew from the first that they were not his property. Mr. Larkins states that he knew nothing upon that subject till a period long subsequent. The first was received in 1779: Mr. Larkins knew nothing of the matter till 1782: and consequently he did not know, till three years after the first event had taken place, anything concerning this matter. However, upon these facts Mr. Hastings grounds a supposition. Unfortunately, he is as unlucky in his supposition as he has been in his more direct assertions—in this instance at least. He supposes that he must have told Mr. Larkins, in 1781, to deliver up these to the Council in case of his death, and that he has confounded his having told this to Mr. Larkins with the actual endorsement of the bonds.

Was his supposition more true than his assertion? Here you have again had Mr. Larkins at your bar;—this Mr. Larkins, whose veracity is so much contended for by the gentleman on the other side of the bar;—you have had Mr. Larkins as evidence in that box, unfortunately falsifying this supposition as well as the former assertion of Mr. Hastings, and he

21 May 1794. says, Mr. Hastings told him no such thing in 1781. He is called again to recollect. He says, he cannot recollect that Mr. Hastings did speak to him in any way upon that subject till the 22d of May, in the year 1782.

Mr. Larkins was then asked this question:—

> "Do you think that, if such a circumstance had happened as Mr. Hastings, in that awful and solemn manner, telling you to take these bonds and deliver them up to the Council in case of his death, such a circumstance would have made an impression upon you?"

He says, "Undoubtedly I think it might." When pressed further, he says, "It must." That is, I admit, rather an argumentative question than a question of fact; but I need not ask Mr. Larkins, or any man, whether there can be any person so differently constituted from all the rest of mankind as not to receive some impression from a circumstance of a man, whom he esteemed and valued—as we understand—a man in such a high situation as Mr. Hastings, stating the instability of that situation and even of his existence—saying:—"I am going upon a hazardous business. I desire you, in case of such an event, to perform such a service which is necessary for the sake of my reputation, as well as for the sake of restoring to the Company the property which belongs to them." We asked if such a circumstance could be forgotten. It was an idle question to ask, because, without the answer of any witness upon such a subject, your Lordships know enough of human nature to be sure that it was not possible for such a circumstance not to have made an impression upon the mind of any man. I asked him over and over again upon this subject. Mr. Larkins says,

> "It might be so: I cannot recollect anything of the matter."

And his not recollecting hearing anything of this till May, 1782, and hearing it under circumstances that must have made such an impression, is, I contend, an irrefragable proof that he did hear nothing upon the subject: and, consequently, Mr. Hastings' assertion, that he knew this not to be his property from the beginning of it, is erroneous. And this completes that part of Mr. Hastings' Defence, and shows that there is not one word of his Defence [that is true], whatever you may think of the argument. The argument may be good about the disobedience to an Act of Parliament not being a crime till it is construed; that it must depend, as he says, upon what your Lordships will do, that is, upon what

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your Lordships will construe, and not upon what he has done. All that argument shall go for common sense, if your Lordships please,—though certainly it is as unlike it as anything that ever I heard—but let it go for what it please; what I dispute in Mr. Hastings' Defence is, not his reasoning, but his facts. And I conceive I have shown that, upon the subject of this Defence as to the presents, first, as to the Act of Parliament, and second, as to his facts relative to Mr. Larkins' privity and knowledge, there is not a supposition that is not erroneous, not a fact asserted that has not turned out to be false.

Importance attached by Counsel to Mr. Larkins' alleged privity to the transactions.

My Lords, it is suggested to me, in confirmation of what I stated to your Lordships before of the stress laid by the Counsel and by the Defendant upon this subject, to cite from the speech of the Counsel. I will not trouble your Lordships with more instances of the same sort. The Counsel says that "Mr. Hastings was determined to have a witness to his honour in such a transaction to whom he could entrust that secret, and, after such trust committed to him, if that person was of a base and flagitious character, the secret was beyond Mr. Hastings' control." Here the Counsel go upon a supposition—I do not blame them: fortunately for them, at that period Mr. Larkins was not in England to contradict them—that Mr. Hastings had communicated these things at the time of their receipt. I call upon your Lordships to look over the evidence and to deny, if you can, that it is true that in no single instance did he communicate them—with respect to their application and all these circumstances mentioned in that Defence—except perhaps in the case of Sadanund, at the time of the receipt. And they say that by that means the secret was out of his power and control: he had a faithful witness to his honour and to his reputation!

You have heard that faithful witness, who generally speaks of him highly, I admit, but when he comes to give his evidence with respect to facts, he destroys every one of these hypothetical facts—every one of these assertions—and proves distinctly upon oath that he knew nothing of these presents at the time of their receipt—nothing with respect to the circumstances under which they were taken, or their application, or any of the other circumstances, till the month of May, 1782.

There is another observation which is made as a general rebutter to the presumptions we have made of the general

21 May 1794.

Payment of the monies into the hands of the Company not immediate.

receipt of these presents. That observation is, that they were all paid to the Company as soon as received. I was astonished when I heard that observation made; for that observation is one which is, not only contradicted by Mr. Larkins' subsequent evidence, of which possibly the gentlemen at that time could have no foresight, but is directly contradicted by the evidence then and now upon your Lordships' table.

I would refer your Lordships again to page 1257 of the printed Minutes, and I would desire you, my Lords, to read that part of the following page with this view, as applying it to that observation of the Counsel, upon which they have rested much—that all these monies were, as soon as they were received, applied to the purposes of the Company:—

Evidence of Mr. Hudson.

"Mr. Hudson was called in.

"The Managers for the Commons stated that, in the printed Minutes, there was a letter from Mr. Larkins, which contained an account of a variety of sums of money said to be received by Mr. Hastings, with the Bengal dates affixed. As those dates and the calculation of the Bengal year might not be perfectly familiar to the House, they had endeavoured to procure a translation of them, which they would now produce.

"Then the witness was asked:—

"'What is that you have in your hand?'—'Part of a letter from Mr. Larkins.' 'Have you translated the Bengal dates into English dates?'—'As near as I could from my knowledge.' 'From whence did you take them?'—'From some books, called the provincial accounts.'

"Then the witness delivered in a paper: the same was read, and is as follows:—

"'Copy of No. 1, referred to by Mr. Larkins' letter, 5th August, 1786, entered in the printed Minutes 1156–57, with English dates:—

"'Copy of the particulars of the dates on which the component parts of sundry sums, included in the account of sums received on the account of the honourable Company by the Governor General, or paid to the Treasury by his order and applied to their service, were received by Mr. Hastings and paid to the Sub-Treasurer. No. 1, Dinagepore.—Received, from the 11th to the 13th of August, 1779, 89,999 rupees; from the 30th of August to the 3d of September, 49,974 rupees; from the 15th of September to the 19th of September, 1779, 27,000; the 20th of December, 25,000; 22d December 15,000. All that in the year 1779. On the 8th of January, 1780, 10,000 rupees; on the 9th of February, 20,000; the 11th of February, 9,000; the 21st of February, 1,000; the 21st of July, 40,000, making in all three lacs of rupees."

And yet, of these sums of money, great part of which were received so early as August, 1779, and the whole received by the month of August, 1780, no one part is pretended to have been given to the public or applied to the public service till the month of October, 1780, in which

Mr. Hastings gives that strange account of the letter upon which it may be necessary for me hereafter to observe. 21 May 1794.

Instances of sums received from Dinagepore,

But, taking all the facts stated and asserted by him to be true, not merely those that are proved, but that are stated on that side of the bar, it is that, in the month of October, 1780, this Dinagepore money, two lacs or 20,000*l.*, was applied to the use of the Company. But we show from this paper that much the greater part of that sum had been received in the year 1779, and that the whole of that sum and one lac more, namely the three lacs, had been received in the month of August, 1780. And none of this is pretended to have been applied to the public service till the month of October, 1780.

Now I do not state this, in this particular stage of the business, as a presumption—which it certainly does afford—of Mr. Hastings' intention to keep these sums to his own use and benefit. I forbear upon this occasion to observe, what your Lordships' understandings naturally suggest to you—that, if anything had happened to Mr. Hastings during all this period, all these sums were Mr. Hastings' private fortune, and would have gone to his executors. I do not speak in that view at this moment, but state it in this single view—in which, I am sure, I defy the Counsel, if they had an opportunity, and I defy your Lordships, to contradict me—to show that the general assertion, which is supposed to produce a general recognition of his innocence, that, with respect to those sums, they were converted to the public use as soon as received [is false]; that, in the case of Dinagepore, two lacs were received a twelvemonth before they were so converted; and that one lac never has been, that I know of, converted to the public use, down to the very moment in which I have the honour now to address you.

from Patna,

With respect to the Patna money, undoubtedly the time between the receipt and the payment was very inconsiderable. That money began to be received on the 21st of March, 1781,—15,000 rupees; 27th March, 10,000; 31st March, 60,000; 1st of April, 5,000; ditto, 10,000; 6th, 60,000; 20th of April, 10,000; ditto, 26,000; 22d to the 25th, 20,000; 25th of April, 4,000; 14th of September, 1,000: the whole amount 221,000. 26th and 27th of April, 1781, paid Mr. Crofts 200,000. And, in point of fact, it was paid on the 27th of April. I am not mentioning this as any blameable and considerable delay in payment. It was undoubtedly a very small one. But I mention this only as

21 MAY 1794. another instance to show that [the assertion that] it was not with Mr. Hastings, even *in transitu*, and that the moment it was received it was applied to the public service, is notoriously untrue; with respect to the Dinagepore, untrue by a twelvemonth and more, and untrue too some days with respect to this money of Patna.

And, if this money of Patna was applied exactly in the way which they state, there is one circumstance which I do not pretend to account for, and which they have not accounted for, and which may raise your Lordships' observation that here, in some view, Mr. Hastings has done more than he says; for some of these receipts appear to be subsequent to the time in which the money was paid into the treasury, for he paid the whole in April and some of this is received so late as November. The Nuddea money was paid on the 24th of November, the receipts having begun about a month before. Therefore you will find that, with respect to the sum from Dinagepore—that with respect to the sum from Patna—with respect to the sum from Nuddea—their assertion, that it was not with Mr. Hastings *in transitu*—that in the moment it was received in the same moment it was paid—is essentially false with respect to all three; that, with respect to Nuddea and Patna, it is false only by a short time, but with respect to Dinagepore it is false, with regard to part of it, by eighteen months; and with regard to the whole that it was very near a twelvemonth; for above two lacs were paid in from Dinagepore very near a twelvemonth before Mr. Hastings pretends that he applied that money to the public service.

and from Nuddea.

My Lords, I have therefore, I hope, succeeded in doing away any presumption which a false statement, through inadvertency, might have raised in your Lordships' minds in favour of Mr. Hastings' innocency, which could be drawn from these two points;—first, from the communication to Mr. Larkins, which Mr. Larkins has completely disowned upon his oath at your bar; and, secondly, from this money not having been in Mr. Hastings' possession; whereas it is proved, on the contrary, that every one of these three sums was for some time in his possession before he transferred them to the use of the Company, and, with respect to one, I have proved it a very long and very considerable interval.

My Lords, there is another point of general presumption from the discovery. When you look to the times of the different discoveries, I think you will find that there is little

stress to be laid upon that ground of presumption. The first, with respect to Sadanund, might perhaps have appeared, in the first instance, to have given your Lordships some idea of a voluntary discovery. I own that, when I opened this business, it did appear in that light to me; and the way in which in my own mind I accounted for it—whether I ventured so to state it to your Lordships or not, I do not now recollect—was, that that present was taken at the time not with a view directly corrupt, for the purpose of keeping the money in his pocket, but that it was taken for the purpose of throwing additional difficulties in the way of Cheyt Sing from whom he received it, and for the purpose of bringing that unfortunate prince to that situation which, in his opinion, would justify the rigour which from other motives he was predetermined to exercise against him.

21 MAY 1794.

Present received from Sadanund.

But, however, it does not now rest upon that species of conjecture of mine. We now have from the evidence of Mr. Larkins a fact which may give some light upon this subject. Mr. Larkins tells you that, when Sadanund gave this money, it was brought to him by a variety of different persons; and there were other circumstances which induced Mr. Larkins to think that it was Sadanund's intention to betray Mr. Hastings. To whom to betray him did not immediately appear; but, upon questions being subsequently put to Mr. Larkins, Mr. Larkins stated to your Lordships that, by betraying Mr. Hastings he meant he had an apprehension that Sadanund had intended to communicate the fact of the present to Mr. Francis, who was then at Calcutta. Mr. Hastings treated this information of Mr. Larkins with contempt, and said, "I care about nothing."

Now I do not pretend to say it is proved: it is not: but I am sure your Lordships will see that there is a possibility of accounting, in this instance, for the discovery of Mr. Hastings, upon other views and upon other principles than those which the Counsel set up for him. It is possible that, from the moment he had apprehension that this might be betrayed—and that apprehension appears to have arisen in him as soon almost as the present was made—it is possible, it is more than possible, that that circumstance might have determined him in this instance—to what? An immediate discovery? No; but to such an immediate application of the sum as would, in his opinion, afterwards justify the receipt of it in the minds of his employers, the court of Directors.

Mr. Hastings' application of it due to his fear of betrayal.

21 MAY 1794.

Pretended discoveries on the part of Mr. Hastings of the sums received from Dinagepore, Nuddea,

With respect to the Dinagepore and the Nuddea money,—the Dinagepore money in particular,—what is pretended as a discovery is, if your Lordships read the letter, the direct reverse of a discovery. In page 1100 of the printed Minutes, your Lordships will find a letter of Mr. Hastings to the court of Directors, dated Fort William, the 29th of November, 1780. He there states the business I just now alluded to; I mean the business of Sadanund. In page 1104, having stated that this money which he offered for Colonel Camac's detachment was not his own, but money of the Company's which had accidentally been in his hands, he says,—

> "Something of affinity to this anecdote may appear in the first aspect of another transaction, which I shall proceed to relate, and of which it is more immediately my duty to inform you."

Therefore, with respect to the Berar money, he says, not that it was the money of the Company, as in the first instance, but he says, "upon the first view, something of affinity may appear." Upon the first aspect!—meaning undoubtedly to infer that it is only upon a superficial view that any affinity will appear; but that, in point of fact, it is a transaction of a distinct and different nature, and that the money in this case was not the Company's but his own, as must undoubtedly be collected from this part of the letter. With respect, therefore, to the Dinagepore money, there is undoubtedly no such communication.

and Patna.

With respect to the discovery which happened subsequently of the Patna money, there has been a good deal of evidence upon this subject, to which I wish your Lordships to attend a little minutely. It was proved completely that, long before the application of this Patna money—I mean, before the 27th of April—a rumour had prevailed throughout our settlements in that country that Mr. Hastings had received money from Kelleram and Cullian Sing. We proved that rumour by several witnesses at the bar, to which I refer your Lordships. That rumour was proved by every witness and was disproved by none. Mr. Anderson informed Mr. Hastings of it: and the Counsel lay much stress upon this circumstance, that Mr. Anderson did not inform Mr. Hastings of it till the month of May, subsequent to the appplication of the Patna money; and upon this the most curious and extraordinary argument is raised that, perhaps, any Counsel was ever driven to in the greatest stress and the greatest difficulty. He cannot deny, because it is in

Existence of a rumour of sums received from Kelleram and Cullian Sing.

evidence before you, that this rumour existed in January, 21 May 1794.
February, March and April; but, says he, it is not likely that any person would have related so disagreeable a rumour to Mr. Hastings. That rumours will come to the ears of those whom they are to concern, whether agreeable or disagreeable, is what most of your Lordships in your individual capacities must know; but we do not rest upon this general presumption. We know the rumour was general. We prove that Mr. Anderson communicated it to Mr. Hastings. "Then," say the Counsel, "he did not communicate it till May." No; but, if we have proved that the rumour existed, and that it was of a sort which one person at least—Mr. Anderson—thought fit to communicate to Mr. Hastings, surely the probability is that other persons must have been of the same way of thinking, and that the rumour must have been communicated to Mr. Hastings by other people. He communicated it in May; and then, as if this had been a secret confined to Mr. Anderson which we state to be a public rumour, the Counsel say, "Mr. Hastings heard this the first time in his life in the month of May; and could that possibly be an inducement to the application of money he made the preceding April?" Certainly not; but I shall ask, upon what principle of reason, sense, or practice in the world, when we find Mr. Anderson communicated this rumour in May which prevailed in fact ever since January, are we to conclude that no other person had communicated it at a preceding time? Are we not to argue the reverse;—that it was a rumour which Mr. Hastings' friends thought fit at the same time to communicate to him, and that he had more of it probably communicated to him soon after it existed? But the Counsel say this is the first time he ever heard of it. Why?—was it known only to Mr. Anderson?

Probability of its having reached the ears of Mr. Hastings.

That a rumour should be a secret is in its nature a strange proposition; and yet they must confine the knowledge of that rumour to Mr. Anderson alone, before they can prevail upon your Lordships to believe that statement of the fact which they make;—namely, that Mr. Hastings never heard of this rumour till the month of May, after he had made that application of the money. And it is to be observed also that Mr. Anderson is himself not positive with regard to the date, but only thinks it might have been about the beginning of May.

With respect to the subsequent discoveries, there is a letter

21 May 1794.

Present received from the Wazir.

from Patna which relates to the present from the Wazir—the letter of the 20th of January, 1782. The account of that discovery is so plain that it is unnecessary for me to say anything upon the subject. Having received that money, the magnitude of the sum at once was such as made it impossible to be concealed,—impossible to be concealed possibly at any time, but peculiarly so at a time when the person from whom that which was called a present, but which we call an extortion, was received, [was in distress]. It was at a period when undoubtedly great real distress existed in the situation of that prince; and greater still was pretended on the part of Mr. Hastings, to justify these enormities of which you have heard in the former Charges which have been argued before you.

Mr. Hastings' letter of May 22d, 1782.

We come now to the discovery in 1782. A great deal has been said on both sides, and many witnesses have been adduced and much evidence has been produced, about the real date of that letter of May, 1782. I admit that Mr. Larkins is positive upon this subject; but, my Lords, I cannot help drawing your Lordships' attention to facts of considerable moment relating to the date of this letter. Mr. Larkins is positive that it was written on the 22d of May; that it was intended to be transmitted by the "Lively;" and that he sent it to Mr. Auriol for the purpose.

Its real date doubtful.

You have heard Mr. Auriol, at your bar, depose upon oath that he is certain he did not receive that letter till on or about the 9th of December. When you first read Mr. Larkins' affidavit, you certainly must have imagined that what he meant was, that the "Lively" was to sail in some part of the summer; that he had then sent it to Mr. Auriol for the purpose of being sent by the "Lively;" and that subsequent accidents prevented her sailing till the middle of December. But, when you hear Mr. Auriol's evidence, the very reverse turns out to be the fact; and this letter which is written, as it is said, on the 22d of May, which they consider as material for Mr. Hastings' honour that it should be acknowledged to have been written on the day the date of which it bears—that letter was never sent out of Mr. Larkins' hand, for the purpose of coming to Great Britain, till the beginning of the month of December.

You have also that strange and unaccountable circumstance, of which they endeavour to make light, but endeavour in vain, that this letter, dated on the 22d of May, does directly state a fact which had not taken place till the 29th of that month. It states that these bonds are now in

Mr. Hastings' hands, bearing such an endorsement. We find, in point of fact, that that endorsement did not take place till seven days subsequent to the date of the letter: and this is endeavoured to be explained in this way:—it is said, many a man says,—"I have enclosed," when he only means to enclose. Possibly he may; but does a man therefore say that a bond is endorsed, only because he means to endorse it? But look to the words of the letter. If I were to say, "I enclose this," or "have enclosed it," every one would understand that I meant to say, either that I had done it immediately before I wrote, or was about to do it immediately after I had written. But is that the sense of this letter? This letter speaks of this, not as having a recent endorsement—not as being endorsed either on the day on which the letter was written or any short time previous to it—but describes the state in which these bonds actually were. And it is so far from bearing the sense that it is a thing done either the day or about the day when that letter was written, that, long after that letter had been written—long after that letter had been upon the table of the House of Commons, and had been before the public—after it had undergone much discussion, so far from Mr. Hastings stating that endorsement to have taken place at the moment of the letter, and therefore whether a day after or a day before might be a matter of no consequence—even after that letter had been received which states the endorsement of the bonds, he referred that endorsement to a period antecedent nearly a twelvemonth, namely, the summer preceding. Therefore that does not, as in the sense Mr. Hastings puts upon it, imply that sort of act which may be done either previously or subsequently to sealing the letter, but that possibly it was done a considerable time previous. 21 May 1794.

Now, when you find that letter asserting that as a thing not recently done, but referring to it as a thing actually in existence, though it was not done till the 29th of May—when, in confirmation of that suspicion, you find Mr. Auriol did not receive this letter till the beginning of December—I cannot help thinking that, notwithstanding the positive and peremptory evidence upon that subject, it is impossible for your Lordships not to conceive some doubt with respect to the real period when this letter was written.

But for what purpose is all this argument? It is for the purpose of showing that this letter was written previous to any knowledge Mr. Hastings had of certain resolutions of

21 MAY 1794. the House of Commons which appeared directly to affect him. Be it so. But will the Counsel on the other side pretend, or can the Defendant pretend, that in the month of May, 1782, two years after that Parliament had sat which lasted so short a time—will Mr. Hastings or the Counsel pretend to say that, from the complexion of the proceedings of that Parliament—that, from the proceedings of the two Committees which sat in that Parliament, known by the names of "the Secret and Select Committees, upon the subject of India,"—will they pretend to say that the complexion of that Parliament—that the proceedings of those Committees—were not such as to hold out to India a probable scrutiny and inquiry into the various delinquencies which were, either truly or falsely, supposed to be committed by the servants of the Company in that part of the world? They cannot say that.

Probable apprehension on the part of Mr. Hastings of an inquiry into the Indian delinquencies.

It may then be said,—"How has it happened that the remainder, if he has taken more, hath not been discovered?"—The facts that followed in this country are those of which I need not remind your Lordships. The change of system in this country, whatever may afterwards be the opinion of those who have most influence and power—the system of this country with respect to India underwent some sudden and very important changes, and it is not to be wondered at, therefore, that under these circumstances more discoveries should not be made. But it is not proved that Mr. Hastings did not act prudently and in a cautious manner, if he had been guilty of more receipts, in describing some of them in the loose way in which he has described these; that, if any were afterwards detected, he should say, "Aye; that is the precise sum which I mentioned in the letter of May, 1782;" and that some such discovery should appear to him to be necessary. This I have stated to obviate the general arguments used for the purpose of presuming Mr. Hastings' innocence.

Cautiousness of his proceedings.

We now come to the particular presents. With respect to the present from Sadanund, it is only necessary to observe that the pretence for taking the present—that it was taken for the purpose of a specific application to Colonel Camac's detachment—has been proved not to be a true one; that, in point of fact, it was not in the Company's treasury till some time after the period when that detachment first took place. If it is stated that it was for the purpose of conciliating the rest of the Council to the expense, it does not appear either to have had that effect; for the opposition stated to be made by

Pretext for the receipt of the present from Sadanund.

Mr. Wheler and Mr. Francis to that detachment still continued, subsequently to the offer made by Mr. Hastings. 21 May 1794.

With respect to the next present—I mean, that from Dinagepore—it is particularly necessary to call your Lordships' attention to it; because, if these were the only presents in the Charge—if this were the only question—I should think I had a right, not only to call upon your Lordships to find Mr. Hastings guilty and to apply to him a severe punishment, but I should think I had also a right to show you, from the nature of this transaction, the infinite probability that it was not a single solitary instance of corruption, but that it was one of many, and taken upon a principle which leads to corruption *ad infinitum* and to the impossibility of discovering it.

Mystery attending the circumstances of the receipt of the present from Dinagepore.

I should, therefore, wish your Lordships to attend particularly to the circumstances of this present. This present was from Dinagepore, we are told. From whom at Dinagepore—on what account—when originally engaged for—not one word appears in any part of these transactions; Mr. Hastings has no where stated; the Company have no where been informed; and your Lordships, after the seven years' discussion which we have had upon this business, are at this moment to inquire. But, my Lords, there is enough to convince your Lordships of great guilt.

This present, it seems, was of four lacs of rupees, and it is supposed that there was a kabulyat or security for these four lacs of rupees. Where is that kabulyat? Has Mr. Hastings produced it? Did he produce it at Calcutta when he came home? Did he send it to the Directors of the Company? Has he produced it at your bar? Did he even show it to Mr. Larkins, his confidant? No! Mr. Larkins states that he never saw that kabulyat; and consequently what must be the consequence of his never seeing it?—that he can know nothing of its contents. It is stated to be for four lacs. How do we know that it is not forty instead of four? How do we know at what date it was given? We have proved that payments began upon it in 1779; but the date might be anterior to payments. How do we know when it was given? How do we know for what it was given? And, though Mr. Hastings out of his goodness is pleased to confess that it was for four lacs, which he states to be the property of the Company, what proof is there that it was given to the Company? What proof is there that it was for four lacs only, and not for any possible sum which that province was able to pay him?

21 MAY 1794. This kabulyat, therefore, we know nothing of. But we do know that, upon this kabulyat, there were paid at different times, commencing so early as May or April, 1779, to the month of August, 1780, three lacs of rupees.

Receipt of three lacs by Gunga Govind Sing, as agent for Mr. Hastings.

Now, here is a material part of the transaction for your Lordships to attend to. This was received:—for we have done now with all supposition that Mr. Hastings had never received it till he paid it to the Company, because we have by Mr. Larkins' evidence established, what indeed was clear enough before, that in this business Gunga Govind Sing was Mr. Hastings' agent, and did keep for him cash which he, Gunga Govind Sing, imagined to be the property of Mr. Hastings, which Mr. Hastings used for a time as his property, but which afterwards he gave to the Company. Gunga Govind Sing had, as his agent, attorney, or what you please to call him, these three lacs for Mr. Hastings in the month of August. In the month of October or November an occasion occurs, which Mr. Hastings thinks a pressing one, for three lacs of rupees to be sent to the Raja of Berar. Three lacs was precisely the sum which Gunga Govind Sing had from Dinagepore. What does Mr. Hastings do? Does he take these three lacs and give them to the Company? No; he does no such thing. He tells the Company,—"I raised two lacs upon my own credit, and one lac which I had of yours I added to these two lacs, and that made up the sum of three lacs." Why did he raise two upon his own credit, if he had them actually as belonging to the Company? Why, these were improper things to be told. And these two lacs, it seems, which he says he raised upon his own credit, were, in fact, two lacs belonging to the Company which Gunga Govind Sing had of Dinagepore money. Why does he state that he raised two lacs upon his own credit? The Counsel says this was a mistake: the mistake consisted in this, he says, that Mr. Hastings did in reality advance one lac of his own money and took two of the Company's, but Mr. Hastings made this mistake, and stated that two were his and one the Company's.

Misstatement of Mr. Hastings respecting the three lacs sent to the Raja of Berar.

Now do let us consider both the magnitude of this mistake and the time of this mistake. The money was said to be applied to the Company's use on the 16th of October 1780. The letter bears date the 29th of November, in the same year, 1780. The distance, therefore, is about six weeks: and Mr. Hastings, with this transaction having passed so recently

as only six weeks, in a sum the whole of which amounted only to 30,000*l.*,—Mr. Hastings, who is stated not as a rich or a wealthy man, makes a mistake of 10,000*l.* with respect to his own property, and as to a transaction so recent as what had passed but six weeks before, and writes to the Company, to whom he is obliged to write, and says gravely "I gave you 20,000*l.* of my own and applied 10,000*l.* of your own!" When asked how he came to state this impudent falsehood, we are told that it was certainly a mistake! 21 MAY 1794.

My Lords, we have heard of Mr. Hastings' negligence with respect to his private affairs; and, probably, great negligence with respect to private affairs may be very laudable with respect to some persons; but can you believe that it is possible, that, with so short a time having elapsed as six weeks, he should not actually find out immediately an error of 10,000*l.* in his own property, out of 20,000*l.*, and should suppose he had lent the Company 20,000*l.* when he had lent them only 10,000*l.*? It is incredible; and, if nothing but this were in proof against Mr. Hastings, the strong presumption in law and common sense will always lie against him who gives a false account of fact; and from this evidence, if there were no other against him but this, could he before a just Court escape?

And it is a little remarkable that all these three lacs were in the hands of Gunga Govind Sing. Why did he supply any of his own cash, as he pretended, when there were actually lying in the hands of Gunga Govind Sing three lacs, according to this account? Let us go a little forwarder in this transaction. In the month of November, his memory is so bad that he thought that he had lent the Company 20,000*l.*, when, in point of fact, he had lent them only 10,000*l.* Naturally, if six weeks had effaced part of this transaction from his memory, six weeks more effaced it a great deal more, and on the 5th of January, about the same term, the next six weeks had effaced another 10,000*l.* from his memory, and he asks from the Company, not bonds for two lacs according to the then state of the business, or for one lac, according to the present state of the business, but he asks bonds for the whole three lacs; another 10,000*l.* being erased from his memory; and Mr. Hastings had supplied the Company with all the 30,000*l.* which had been applied to that service!

Unwarrantable demand of Mr. Hastings for a further sum of 10,000*l.*

When we come forwarder in this transaction we ask what became of the remainder? This kabulyat was for 40,000*l.*

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Balance of the sums received from Dinagepore.

According to your own showing, you have only applied 20,000*l.* for the service of the Company: what is become of the other 20,000*l.*? The other 20,000*l.* is divided into two parts and stands upon two different grounds; one, it seems, has been paid to Mr. Hastings' agent, Gunga Govind Sing; the other does not appear to have been paid.

Now, first, with respect to that which was paid; it was paid into Gunga Govind Sing's hands so early as the month of August 1780. I am now addressing your Lordships in the month of May 1794, and I ask you—when, where, and how, Mr. Hastings ever applied that 10,000*l.* to the service of the Company? It is not pretended—there is not a tittle of evidence to show—that he has. Then am I not intitled to say, that, as far as we can consider this business juridically, I am to suppose that money to be actually in Mr. Hastings' possession, and even at the moment we are speaking, when he so boldly and so confidently asserts that none of this money was converted to his use, that 10,000*l.* is actually now in his possession? Why am I not to suppose that? Because, they say, there is another story about this 10,000*l.*—that it is a balance left in the hand of Gunga Govind Sing; that Mr. Hastings was extremely dissatisfied with him about this.

This makes Mr. Hastings, not only negligent of his own affairs, but pretty negligent of the Company's affairs too; for, if this 10,000*l.* was, as he says, never meant for his use and benefit, never taken on his behalf, but taken by him merely as an instrument to convey it to the Company, then it is not negligence in his own private affairs but unpardonable negligence in the Company's affairs, that he has suffered Gunga Govind Sing to retain in his hand 10,000*l.* which he had received by Mr. Hastings' direction upon the kabulyat from Dinagepore—Mr. Hastings introduces that—for the use of the Company. But, Gunga Govind Sing has given him unsatisfactory accounts with respect to his disposition of it. For some time we did not know from what this dissatisfaction had arisen between an accountant and his employer. Mr. Hastings states himself, as it were, a collector for the Company. He receives these presents as a factor for the Company, for their use and their benefit. My factor receives for my use and my benefit a large sum of money and an engagement for 40,000*l.* He pays me only 20,000*l.* He excuses himself for not paying 10,000*l.* because he had not yet received it. With respect to the other 10,000*l.* he

says—"I did indeed receive it, but the person I employed to receive it has given me very unsatisfactory accounts about it." Should I not say—"You are answerable to me. Talk not to me of unsatisfactory accounts of other persons, but let me avail myself of that money which, you say, is for my use and benefit?" 21 MAY 1794.

But, my Lords, we have had Mr. Larkins upon this part of the case too, and there is no part upon which he is not a material and useful evidence. He recollects Mr. Hastings' dissatisfaction with Gunga Govind Sing, but he recollects what that arose from. He says Gunga Govind Sing had disposed of this lac of rupees in presents of diamonds and other jewels to Mrs. Wheler, then wife and soon after widow to Mr. Wheler, the only other member of the Council besides Mr. Hastings.

Alleged disposal of the 10,000*l.* by Gunga Govind Sing in presents to Mrs. Wheler.

Now, with respect to the truth of this fact, we have nothing to do with it in this cause. I am informed that that lady does most directly and peremptorily deny the truth of that fact; and everything which I have heard of the character and reputation of this person, undoubtedly, leads me completely to believe her assertion, and to disbelieve anything that is placed against that, unless supported by some such proof as I could not resist. But, for the purpose of this transaction, it matters not whether that account be true or be false. I state it in order to make you see the strange and incomprehensible situation in which Mr. Hastings states himself to have stood with respect to these sums of money.

Mr. Hastings received for the Company a kabulyat for 40,000*l.* He pays 20,000*l.*: he receives another 10,000*l.*, and then is told—what? That this has been made a present of to Mrs. Wheler. A present from whom? From Dinagepore? No; Mr. Hastings received a present from Dinagepore for the Company. A present from whom? From Mr. Hastings? Did Gunga Govind Sing say, "I have this money of yours in my hand, but I did not think I could so well employ it as in giving it in a present to a lady, though you gave me no authority so to do?" Does Mr. Hastings mean to say that it was the Company's money; that Gunga Govind Sing was entrusted by him with the Company's money, and he could hear for a moment of his diverting the Company's money in a present, and that it should not be a subject for instant inquiry and punishment if the fact was true? Till Mr. Larkins brought out this circumstance, he thought it better to leave it upon a general state of being

21 MAY 1794. dissatisfied with Gunga Govind Sing's account. We have the particulars now sworn to by Mr. Larkins; that he had it from Mr. Hastings that Mr. Hastings told him at the time this is the account that Gunga Govind Sing had given him of this lac.

Further employment of Gunga Govind Sing sufficient evidence of Mr. Hastings' guilt.

Then I would rest the point here and ask—can it be possible that a man [is not] guilty of peculation and corruption who, when he received money for the Company and was told by his agent that it was so abused as to be diverted in a present to an individual lady, could proceed to employ and to reward the man who was his agent, and not think himself bound to give any further account of that money to the Company, nor consider himself as debited to the Company for it? I defy any circumstance to make a more complete proof, of itself, if there were nothing else in the cause, of the very peculation and corruption which I state.

But this is not all. What is become of the other lac? Mr. Larkins suspects half of it to have been paid by Nundulol. Is is merely a suspicion of Mr. Larkins. Mr. Hastings has never told us so; he never wrote to the Directors so; he never stated in any account that it was so. But, if it were, it would only reduce the balance to one half lac; which in some views might be of some consequence, but of none certainly in the view in which your Lordships will consider this matter.

Mr. Hastings responsible for the whole 40,000*l.*

There is another lac due. What is become of it? It is not received. If Mr. Hastings received for the Company a security for 40,000*l.*, was he not bound to pay over 40,000*l.* to the Company? If that security failed, and only 30,000*l.* instead of 40,000*l.* was paid upon it, he was bound to give the Company surely the security. This part of the cause has not been argued much on the other side, because, I suppose, it is impossible to argue it. But, if a man has received a security for a sum in the capacity of agent to another, does it require an argument to show that he ought to pay the whole amount in money or deliver the security for the remainder? He has not done that, but possesses the security at this moment, by himself or agent. And this is another direct contradiction to the assertion, that every farthing Mr. Hastings has received has been paid to the Company. I say, Mr. Hastings received either 40,000*l.* or security for 40,000*l.* Only 20,000*l.* has been paid to the Company; and there is a frivolous excuse—or rather scan-

dalous excuse—as to 10,000*l.* With respect to the other, nothing has been paid to the Company, nor the security for it, which, if it was their money, they were intitled to till the money could be obtained. 21 MAY 1794.

Detention of the security by Mr. Hastings.

We have questioned not only Mr. Larkins, but Lord Cornwallis upon the subject. We have asked whether he ever heard of this kabulyat. It was never stated by Mr. Larkins to Lord Cornwallis, Sir John Macpherson, or Sir John Shore. This kabulyat has never made any part of the property or effects of the Company. If it has, show us where it existed—when brought to the account of the Company. If it has not, then I say, if the kabulyat is for 40,000*l.*, 20,000*l.* of that Mr. Hastings may have paid the Company; 20,000*l.* he has either retained for himself or remitted it to other persons, which is the same thing; and the Company have lost 20,000*l.* out of that 40,000*l.* which, according to Mr. Hastings' reasoning, was the property of the Company and not of him. For your Lordships are too much conversant in the affairs of the world, and too much used to pecuniary transactions, not to know that it is impossible to make any distinction between money and securities for money, and that, if I receive securities for money, which I am bound to pay to another, if I do not pay the money itself, I am bound as much to restore him the security as if, had I received the money, I should have been to have paid it. Mr. Hastings has not delivered over the security; and that shows that his assertion that this money was given to the Company is a falsehood, for the Company are not now in possession of it.

Further defalcation in respect of the Patna money.

My Lords, with respect to the Nuddea money, it is not within my knowledge that there is any such difference. With respect to the Patna money, there is again a difference between the payment and the supposed engagement. The engagement is for 40,000*l.*; the payment is 20,000*l.* I then call again upon Mr. Hastings and ask him—what is become of that deficiency? If he had not received it he might say he could not have paid it, but he could have given in the security at least for that money; and, till he has done that, how am I to know that he is not receiving instalments upon it? This account was made up only to the year 1782; how do I know that Mr. Hastings has not received for himself all this money, which those persons engaged to furnish? If he has not, it makes no difference in the case; for the assertion is equally false, that the Company has

21 MAY 1794. received it. If he was an agent for the Company in receiving these bribes or presents, he was an unfaithful agent; for he received securities which he never made good, and he has never paid in the money or given any security which would enable the Company to coerce and enforce the payment. And, notwithstanding the distinction of Mr. Larkins, by which he endeavoured to put the 10,000*l.* to Mrs. Wheler out of the question, and the 5,000*l.* to Nundulol, which made him reduce the balance to 25,000*l.*, I assert that the balance is 40,000*l.*, which, till Mr. Hastings refunds to the Company or gives them the security originally given to him, I say, is in Mr. Hastings' hand and not the East India Company's. And therefore that fact is not true, that every rupee he has gained by these presents has been applied to the use of the Company and not retained to his own use.

My Lords, with respect to this letter upon the Patna business I might make many more observations, if your Lordships' time was not an object of my consideration; but I cannot help observing that the Counsel, with a view of catching us in a mistake, if any such opportunity had offered, have supposed that we meant to say that all the history—all the narrative part of the letter, which is not immediately connected with the taking of money, was all false; and they have gone, therefore, into a good deal of evidence to show that that part of the letter which stated the relation of the Raja of Berar to the Company—which stated the advantage to be derived from a donation of three lacs—that all that narrative part of the letter was not false, and that consequently we have not fulfilled our engagement to prove it to be so.

Falsehood of Mr. Hastings' statement respecting the Raja of Berar.

Our engagement was no such thing. It was to prove that part to be false which is connected immediately with the subject of the Charge. But, if we had entered into such an engagement, I admit we did not fulfil it;—but the Counsel have fulfilled it for us! And they have brought evidence which shows that all that narrative part respecting Mudaji Bosla, the employment of these three lacs, and the advantages to be derived from it, was completely false. I will not waste your Lordships' time with going at length into that transaction: I will state a very few facts for your consideration upon the subject.

Mr. Hastings states that sixteen lacs was what Mudaji Bosla wanted; "but," he said, "in this way of giving it as a private donation, less than sixteen will do to be given to him."

From the papers the Counsel have brought, joined to those which we insisted upon being read in reply, your Lordships will find that, so far from doing with less than sixteen lacs, as Mr. Hastings said he could by this mode of proceeding, the expense of the payment to the Raja of Berar turned out twenty-eight lacs. Sixteen lacs were given him directly in private donations, and ten were given in the shape of a loan, which the witness declared never had been repaid. So that, instead of Mr. Hastings having asserted truly that, by giving three lacs in this particular mode, less might answer the purpose of satisfying the Raja than the sixteen he had demanded, the fact turns out to be directly the contrary; for, instead of sixteen, the Company were obliged ultimately to pay twenty-eight lacs. 21 May 1794.

With respect to the Mahratta peace and Mahratta war, we were not allowed to bring the evidence we might wish, and we cannot go much into that subject; but I beg to say that, upon the evidence actually before you, it appears that the same terms of peace—and better—might have been had, previous to the donation of those three lacs, than any that either could be then or that were obtained afterwards. It appears that, if the treaty of Poorunder, which had been offered to be the basis of a treaty before the donation of these three lacs, had been accepted, a better treaty would have been made for the Company and the country than was made, notwithstanding the exertions of Colonel Camac's detachment and the beneficial consequences stated to have resulted from the donation of those three lacs. If you look at the instructions which appear before you, and of which they have quoted a part, in order to show that these three lacs prevented us from having the question discussed upon the disgraceful subject of a tribute to the Mahrattas, you will see the disclosure of Mr. Hastings upon the evidence to be such as they state. But, if you look into the evidence which we produce, and which makes a part of the same business and the same papers, you will find an explicit declaration upon the part of the Government of Berar that they do not understand it in that light, and that they consider it as much for their honour that the tribute should be considered as a payment from us, as Mr. Hastings had stated he considered it as honourable from him. The Mahratta peace.

I cannot help remarking upon the singularity of circumstances which has produced these instructions as a defence of Mr. Hastings. I cannot help remembering that there

21 MAY 1794. existed a Secret Committee of the House of Commons, of which I had not indeed the honour to be a member, but of which some members in this House might be a part;—I believe some who sit as assessors to this House, in the gravest and most respectable characters, made a part. I know that they reported to us, the House of Commons, not these instructions; for, when they discussed the whole of this business, they said they would not produce these instructions to the House, because they were so disgraceful to the British name and to the British cause. These instructions of Mr. Hastings, which were withheld from the House of Commons because the very sight of them would reflect disgrace upon the British name in India—these are produced as his defence in this moment—these, which were concealed, I admit, not out of tenderness to him, but to the British name, which we are supposed in some degree to represent, are now produced, not only as exculpation and defence, but as a kind of merit and set-off of his crimes!

Disgraceful nature of Mr. Hastings' instructions.

Falsehood of Mr. Hastings' pretext for the receipt of the present from Dinagepore.

But, to return to the direct point of this present—I have stated it to be to the amount which it was, and only one half actually paid to the Company. But here I might recur again to another defence of this present; and hours of the gentleman's speech opposite me are entirely done away by looking at one single date. These presents were taken for the service of the Company in times of difficulty and danger. Mr. Hastings did what is the last act of heroism;—he risked even his reputation for integrity and with respect to pecuniary concerns for the sake of serving the Company in its difficulty and danger. He took these four lacs, it seems, with a view of buying off the Raja of Berar,—with a view either of rendering Mudaji Bosla quite neuter in the war, or of converting him to the interests of Great Britain. For such an object, surely some irregularity might be connived at; for such an object, some breach of an Act of Parliament surely may be forgiven—may be considered meritorious.

When did Chimnagi Bosla appear with his father's army? In January, 1780, it appears from the evidence, this army appeared. But it is not the appearance of the army, but when was it that Mr. Hastings thought this sum necessary for the purpose of a donation to the Rajah of Berar, for the purpose of producing the beneficial consequences which he states that donation to have produced? I say, it is in the autumn of 1780. When this engagement was taken for the

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money from Dinagepore I cannot say; for this kabulyat never has been, and, I believe in God, never will be produced. I cannot say when, but it was prior to the spring of 1779; because in the spring of 1779 payments were made upon it. So, in order to believe that Mr. Hastings did this with a patriotic and meritorious view, you must give him another quality besides all those great ones attributed to him,—you must give him a prophetic spirit also: you must suppose that he transgressed an Act of Parliament in 1779; that he forgot his duty to the Company and his country in appearance; that he received that present contrary to the law; that he kept it secret from the Company; that he incurred at least the danger, in case of a discovery, of a suspicion, which he could not repel, that he had peculated and acted improperly in respect to money and taken a present for his own use and benefit;—that he incurred all this risk to his reputation, and broke an Act of Parliament in the month of February or March, 1779, because he foresaw that, in the month of October, 1780, a difficult service would occur for which precisely that sum would be necessary, and for which he could at that time provide no other means whatever! I must put it this way, or I must discharge from my mind all that part of the Counsel's argument, which made no inconsiderable one in point of length and force, which is drawn from an opinion that Mr. Hastings ran the risk of calumny, as they call it, and subjected himself to those imputations, for the sake of providing for services necessary for the public. I say that, as far as appears, he took this money in February or March, 1779, and we do not find that the necessity upon which the taking of it is justified had occurred till the month of October, 1780.

Ability of the Company to raise the money by loan.

But was it necessary for this purpose at the time? It appears from the evidence that undoubtedly, for such a sum as three lacs—the sum wanted—the Company could have raised it by their credit; that they could have raised it by a loan. If they could have raised it, would it not have been better to borrow so trifling a sum as 30,000*l.*, if not upon so good terms as might be wished, than to have subjected their servants, for this receipt of money contrary to the orders of the Directors and contrary to Act of Parliament, to a general discredit among the natives in general?

Present from Patna.

In the next present—I mean, that of Patna—as most of the same observations occur on the side of the defence, I

21 May 1794. conceive myself to have anticipated this by what I have said upon the subject of the Dinagepore money. There is also some argument in that case upon the word peshkush; and it is stated that this was a peshkush.

First of all, I think that they completely failed in their proof upon that subject, and that, when they show us some instances where the word peshkush is used in an engagement of this sort, I think, in every such instance, it appears distinctly to have been called peshkush by Mr. Hastings—whether with a view to the colouring of this transaction or what other view, I know not—but it is called so by nobody else; others calling it nazzaranas, which nearly answers in our language to the word presents or gifts.

Not a peshkush.

But there is another consideration that arises from this interpretation of peshkush. If it was a peshkush, why then it was, as they state, part of the agreement of Raja Kelleram, or Cullian Sing, or whoever it was, with the Company. It is a part of the rent for the lands. It is as much a part of the rent for the lands as if it had been a part of the annual rent, if it is to be understood upon the footing upon which the Defendant endeavours to put it; because, in your own estates, whether you receive a larger annual rent, or a less, which is supplied by a fine upon renewal of your lease, it is equally a part of your income and produce of your estate. If I am to take it in this light, which the circumstances do not support, I then say, what has become of the money? Mr. Hastings has taken an engagement for the rents of the land, which engagement was bad, for it has not been fulfilled. He took 40,000*l.* peshkush: he has received and paid only 20,000*l.* What became of the remainder;—has Mr. Hastings it or not? If he has it, why not pay it in to the Company? If he has it not, why not give the security to the Company, in order that they may put the laws in execution, and by that kabulyat and security recover the money retained from them? It may change in some degree the nature of the crime, but it cannot diminish the malignity of it, whether it is to be considered, as I consider it, as a present or bribe taken by Mr. Hastings for his own use, and partly converted to that of the Company in subsequent times; or whether it be money that Mr. Hastings took as part of the rent or income of the Company, of which he paid them only one half, and for the other half of the whole has not only given them no security himself, but withheld the security which he had received

20,000*l.* still due to the Company.

from the person, in the shape of a peshkush or in the shape of a fine. 21 MAY 1794.

My Lords, the next present that comes to be considered is that of the Wazir. I shall not dwell long upon this subject; because referring your Lordships to what was said upon a former occasion and to the defence will, I think, satisfy you with respect to the unjustifiableness of this measure. He accepts a present, as it is called by a strange perversion of terms, from the Wazir, at the time when he conceived the Wazir's necessities to be such as to justify his forcing him to those transactions which your Lordships have heard in the former Charges of this impeachment; and at that period, when he was forcing him to extort by violence from his mother—forcing him to extort by violence from all his nearest relations, and from those to whom he was most bound to pay respect and obedience, the sums of money you have heard—that was an opportunity which the Defendant thought a fit one, not to enrich the Company, but to enrich himself! You have heard that was an opportunity which the Defendant at your Lordships' bar thought a fit one to extort from this Wazir 100,000*l.*; the disposition of which, indeed, he submits to the Company—which, I believe, he asks the Company to dispose of as a present to him. Present of 100,000*l.* extorted from the Wazir.

What are we to think of the mind of this man, who is held up at some times as so exalted and at other times as so fallen? What can we think of this man, who is driven to that most shocking expedient which, if even justifiable, must have been that sort of justifiable act which no man could execute without the severest pain and torture—I mean that of forcing the Wazir to take by violence, and contrary to faith and treaty, the treasures from the Begums? What can we think of the man who, at the very period while these transactions were either just passed or in action, should think that a fit opportunity for him to force 100,000*l.* from that miserable man, reduced to that extremity, and to ask the Company, not to apply it to their own use, but to give it him as a reward for his services? The Company very properly have disallowed that claim; but it cannot be denied that it was with that view the money was taken in that instance, since it was expressly requested of the Company. And I don't know, among the whole list of bribes, peculations, &c., one that excites the indignation of feeling minds more than this, considering the terms under which it was Mr. Hastings' attempt to obtain this sum as a gift from the Company.

21 MAY 1794. exacted and the purposes to which it was intended to be appropriated. That he should wish to be a participator in robbery and plunder;—that he should not wish to say, when he is driven to those extremities,—"it was for the sake of my country: I will at least make it clear that I have no personal interest in prosecuting;"—this is as inexplicable as the whole conduct of the Defendant is upon the subject of this money.

Original destination of the present.

It is to be observed that this 100,000*l.* is not all a present to Mr. Hastings, but 10,000*l.* to Mrs. Hastings. I mention this for the purpose of showing your Lordships that, in the view of the donor, in the view of those who are the agents in it, and who paid this to Mr. Hastings—they at least could have no conception that it was a resource for the Company, but that it was a private and individual present; and that, though that part as well as the rest may have been employed for public purposes afterwards, it is a complete proof of what was its original destination, and that it stands in the same light and predicament of corruption with the other presents which we have stated.

Present or loan from Nobkissin.

My Lords, I have done with these presents, which Mr. Hastings says he converted to the use of the Company. I now come to one which is of a more singular and extraordinary nature than all the rest; I mean, the present said to have been received from Raja Nobkissin. With respect to this present, if it were a loan, everything is dark and obscure—nothing more so than the time in which it was made. My Lords, Mr. Hastings said that he made this loan in the year 1783. There may, perhaps, be some reasons that induced the Managers to suspect that it was made at a time previous to the date which Mr. Hastings states, but upon that subject we have not laid any evidence before your Lordships; but it was material for the Defendant to show that his account of it was true in all particulars. Mr. Larkins was here. We asked Mr. Larkins, when it was? He could not recollect:—

Examination of Mr. Larkins.

"Can you recollect within a month?"—"No." "Within three months?"—"No." "Within six months?"—"No." "Why cannot you recollect?"—"Because it is a long time since I have seen Mr. Hastings' books."

It appeared in the examination here that to this point Mr. Larkins had been examined before the Committee of the House of Commons. It appeared also that, subsequent to his examination before the Committee of the House of

21 MAY 1794.

Commons, he had held much conversation and intercourse with the Defendant, his friends, his solicitors and his Counsel; and yet, when we asked him whether he had been enabled from any reference to those books to ascertain the time, he said, he had made no such reference. "How came you not?" He said, he did not think he should be asked the question. All this was put to him in the most pointed way imaginable, in order to produce from Mr. Larkins a declaration with respect to the date of that present, which might serve either to confirm or falsify Mr. Hastings' declaration upon the subject.

The trial was adjourned: the Easter recess intervened. In that recess he had frequent opportunities of communication with Mr. Hastings. I dare say he would not have been denied reference to his books, if the reference would have furnished matter for confirming Mr. Hastings' statement of this fact; but, when examined again, he says, "I cannot say anything as to the time." This was said to be in 1783. He is asked, whether he was sure it was not in 1781? He cannot even answer that question in the negative, because, he says, Mr. Hastings' books from which it would appear have been long out of his possession. "In whose possession are they?"—"In the possession of Mr. Hastings and his agents"—with whom Mr. Larkins had repeated converse and intercourse; yet they never chose to open these books to him again, in order to enable him to ascertain the fact whether this present was in 1781 or 1783.

Mr. Hastings' version of the transaction.

There is another fact upon this subject which is much less doubtful. Mr. Hastings says directly that this he solicited as a loan, and accordingly a bond was brought, properly filled up, for him to sign; but Nobkissin, upon what principles we Europeans are at a loss to conceive—but Nobkissin said—"For God's sake, don't let this trifle of 30,000*l.* be a loan between you and me! Take it as a present. I had rather give it you as a present than lend it you as a loan." And, in point of fact, with respect to the poor man, I believe it has turned out much the same whether a present or a loan. However, Mr. Hastings says that Nobkissin then said—"don't take it as a loan: don't give me your bond: I desire you won't give me your bond;" and therefore that he did take it as a present, for the purpose that he states in his letter from the Ganges.

Evasive character of Mr. Larkins' evidence.

Now Mr. Larkins is come to England, what does he say? He, like many Indian witnesses, is not confident in his

21 May 1794. memory of money transactions. His general answers are—"I may have said," and "I might have recollected," and "such a thing might have struck me." I am sure, to such of your Lordships as are curious at all in grammatical inquiries, it cannot have escaped your observation that there is a new dialect in the English language, which, I suppose, will in future times be called the Indian dialect. Many of your Lordships know that, in the Greek language, there are many dialects, and it is the peculiar character of one of them—I believe, the Doric—possibly, on account of the simplicity of manners of those who spoke the dialect in general, that, instead of using a subjunctive, [they used the indicative mood]. The Indian dialect, not being spoken in general by persons of such pastoral simplicity, is directly the reverse; and where an Englishman in England would answer in the plain indicative mood—"I did" or "I did not," they always use the conditional—"I might not," "I should not," or "may be, I might not," or "may be, I could not." I mention this in this particular instance, to show that Mr. Larkins quits his Indian dialect and assumes the English dialect—the indicative mood. Upon this occasion—in this instance almost only—he speaks positively: he says:—

"There were bonds executed by Mr. Hastings. I know there were bonds. I am sure there were bonds."

His declaration that bonds were given to Nobkissin.

Now, almost the only point on which he speaks in this old English confidence and dialect is, that he knows there were bonds from Mr. Hastings to Nobkissin for these sums. Mr. Hastings, in his account of this transaction, implies that there was no bond at all; that he borrowed the money; that a bond was brought to him properly filled up; that Nobkissin desired he would not sign it; and that, in fact, no bond was executed. I need not comment upon this additional false account of Mr. Hastings with respect to this transaction. There are so many that it is difficult to state one stronger than the other, but yet I must confess that, in my way of viewing the subject, this appears to me the strongest of all. And one cannot conceive it possible that an innocent man who had borrowed a sum for which he had given bonds, which is certainly true according to Mr. Larkins' account, especially if any dispute remains between him and the individual about the money—I say that it is impossible that without guilt he should declare that direct falsehood, that he was desired by Nobkissin to sign no bond and did sign

none, when the fact is, according to the evidence of his own friend, Mr. Larkins, that he did sign two, in which Mr. Larkins is absolutely certain at this distance of time. Upon this subject there is more evidence also. Where the bonds are now, whether in Mr. Hastings' possession, or Nobkissin's, or in whose, is a point which may be discussed in other places but with which I have nothing to do. 21 May 1794.

Mr. Larkins tells you that he knows also that Nobkissin did, a very little while before Mr. Hastings' departure from India, solicit him for these bonds again. Mr. Larkins says, he knows there were bonds; he knows Nobkissin solicited for the return of them; or, in other words, that Nobkissin considered this not as a present but a loan. Mr. Hastings comes to the bar of the House of Commons and declares there solemnly that it was originally a loan, but converted, at Nobkissin's desire, into a present; and, so far from its being possible for Nobkissin to ask him for the return of any bonds, that, in point of fact, he never did execute any bonds; Nobkissin having waived all desire of his executing any such security. Upon the face of it, there is guilt so strong that it is not necessary for me to mark and stigmatise this transaction.

Contrary statement on the part of Mr. Hastings.

But with respect to the application of this money;—here it is not pretended that Mr. Hastings has applied the money to the use of the Company. Mr. Hastings in this instance has directly applied it to his own use. But he writes from the Ganges and says, that he applies now to the justice of the Company, since he finds applying to their generosity is in vain. Since they would not give him the 100,000*l.* of the Wazir's, he resolved to take this 30,000*l.* of Nobkissin's, and he says, "I set against it a variety of charges." I will not waste your Lordships' time in going into these charges; but, you observe, Mr. Hastings himself declares that they were charges he had never meant to bring against the Company; and therefore you must conceive that this present from Nobkissin is taken for himself directly, because these charges which he sets against it would not otherwise have been brought against the Company. When you look at these charges, you will see many of a nature which could not be brought against the Company.

His pretext for applying the money to his own use.

My Lords, I don't know enough upon the subject either to praise or to blame; I don't mean to dispute the merit of Mr. Hastings in his munificence with respect to a Mohammedan academy; but I know, if he had no orders from the Company with respect to such an institution, that he

Charge for grant to the Mohammedan academy.

21 MAY 1794. had no right to spend their money upon it; and I know from the records of Parliament that, when Lord Macclesfield stated, as an extenuation of money taken in the form of presents which were contrary to law—when he stated his munificence to the English college and university, that argument was set at nought, as, I think, it deserved to be. I am sure that this Mohammedan academy at Calcutta had no right to stand in a more favourable light with your Lordships. But, when I look into it further, I see a great deal for houses for *aides-de-camp.* I find that a matter for which he had in a manner settled with the Company some years before;—that he had stated that the money for the hire of their houses was not sufficient and desired it to be increased, and it was increased. And yet, when he comes to state this account, I find no deduction from the general expense of houses for *aides-de-camp;* I find no deduction of what had been paid more than had been formerly paid, since the new regulation that had taken place at his desire, but I find the money all laid out generally—"the houses for *aides-de-camp,* etc.," not only previous to the time when the allowance was increased, but subsequent to that time; and that there is also an interest upon it charged. I find all this is made up in the careless way in which one might naturally suppose an account to be made which was never intended to be brought against the Company.

For houses for *aides-de-camp.*

You will find, in the evidence upon the subject of these *aides-de-camp,* a most extraordinary defence indeed of these expenses. And it is material your Lordships should know for what it is that you are desired either to justify or to extenuate the illegal custom of taking money. It is not for the general services of the Company, but to set against particular charges of Mr. Hastings, and particularly that charge with respect to finding houses and habitations for his *aides-de-camp.* — Look: it is in page 2197 of the printed Minutes:—

His application of military patronage.

"The Governor General says, 'It is with great reluctance that I call upon the Board for assistance in a matter which may be considered as of a private nature, although inseparable from the station of every member of this Government, and more especially from that of the chief magistrate. The object which I allude to is, that of patronage in the military line, which the members of the Board can only exercise the privilege of collectively—and that not in many instances—or individually, by their influence with the Commander-in-Chief, in proportion to the degree of cordiality which may subsist between them. I do not mean to censure an institution which has been judged expedient by our superiors. I

shall only request the attention of the Board to my own situation. Called upon continually by persons of high rank and station, both in the national and in the Company's councils, to protect and prefer their friends in the army, and by the merits and services which have come under my personal knowledge and observation, I suffer both pain and humiliation at the want of power to reward the meritorious or to show a proper attention to the wishes of my superiors, without having recourse to means which must be considered as incompatible with the dignity of my station.'" 21 May 1791.

This I take from the Defence. So that, when we accuse Mr. Hastings of having taken, contrary to law, the present from Nobkissin, he says, "it was necessary to satisfy the charges which I had incurred by a number of *aides-de-camp;*" and then he states that the number of *aides-de-camp* was necessary for his military patronage, in order to comply with the requisitions of persons of high rank and station—in order to satisfy some of your Lordships—in order to satisfy some of the members of the House of Commons—in order to satisfy the King's ministers—in order, in short, to make court improperly, at the expense of his duty, with those before whom he hereafter might come to be judged, or by whom he ought to be accused, or by whom he ought to be recalled. He states this inference as a justification of another direct corruption, in receiving a sum of money contrary to the duty of his situation and to the regulation of an Act of Parliament.

Corrupt nature of the transaction.

My Lords, I am sure you will not suffer him to apply this to you, and you will not feel that if, at any period, any of you may have recommended persons—as many may innocently and meritoriously have done—to the patronage of the Government of India, you authorise them to increase that patronage, and increase charges for the patronage of those persons, which are afterwards to be set against presents taken contrary to Act of Parliament, and which are supposed to be taken for the mere purpose of defraying those charges incurred from the motives stated in that minute. This present of Nobkissin—if it is to be called so—stands, therefore, upon a singular footing. He has taken that for himself. He has kept it to himself. He has not accounted for it to the public. He states charges and says, "they are charges which have been subsequently allowed to subsequent Governors." If they had, how had they been allowed? At the time they had been incurred. They had been stated regularly, month after month, and admitted, where they had been admitted. That is the mode of doing business fit to such a situation. But what is the Defendant's mode? He

21 MAY 1794. was thirteen years in the situation. He makes no account, but, happening to receive 30,000*l.* which he chooses to keep to himself, he huddles together a number of charges, at a time when there was no power in the Company to decide whether they were fit to be incurred and discharged—he huddles them altogether and sets them against this present, which, in open defiance of law—in open defiance of his construction of law—in open defiance of every principle he has set up in his defence, he has received from Nobkissin—a present for his own use and benefit, supposing it to be a present; if it be not a present, it is an extortion, or a fraud, or a mixture of both.

True character of Nobkissin's payment.

If it be true that Mr. Hastings asked this as a loan of Nobkissin, why does it not continue as a loan? Not, as Mr. Hastings tells you, because Nobkissin, when the bond came to be filled up, desired it to be so considered; for that is disproved by Mr. Larkins, who swears that bonds were then given. What has Nobkissin since done to convert that which was originally a loan into a present? Have they proved that this, which was a loan from Nobkissin, was converted into a present by his consent? Where have they proved it? And does it not rather appear that in this instance it was not, properly speaking, a present; it was not, properly speaking, a bribe; but, originally, a loan gained by extortion, and converted by fraud into the possession of Mr. Hastings?

Different accounts of the transaction given by Mr. Hastings.

After having troubled your Lordships so long upon this part of the subject, I should wish to conclude it, but it is absolutely necessary just to refer your Lordships' attention again to the different accounts Mr. Hastings, at different periods, has given of this transaction. I hope this letter of the 22d of May, 1782, is not out of your recollection; that you do not forget the light style in which he talks of these businesses, and says,—"what my reasons for this were or for that I [cannot say]: may be I had no reason at all, or have now forgotten;"—and so on. I hope you do not forget that letter from the Ganges, where he states his extreme poverty, in direct contradiction to former professions, some of which state the Governor General's to be a place sufficient to satisfy any desires whatever; and in other places he says, he could retire with such a competence as would satisfy his moderate desires. But I wish you, above all, to recollect the letter from Cheltenham and all the observations that arise from it.

In May, 1782, Mr. Hastings states these transactions to

the court of Directors. The court, in answer, write letters which Mr. Hastings interprets into some degree of disapprobation of his conduct; but he leaves Calcutta, having received these letters, and leaves India, without making any answer whatever to them and without giving them any further explanation upon the matter. When he was in India, with Mr. Larkins at his right hand and Gunga Govind Sing at his left, and when Cantoo Baboo was close to him,—when he had all the means whatever of furnishing information upon this subject, he leaves India without giving the Directors one tittle of information. He then comes to Great Britain. One should have expected that the last thing he would have done before he left Calcutta would have been, to have made up his account upon all those subjects; to have made a statement so clear that it would be impossible for his worst enemy to cavil at it; and that the first thing he would have done upon his arrival would have been, to have gone to the India House and stated the whole of that matter, and then have offered himself *bonâ fide*, as he had offered before when at a distance, to any interrogatories upon the subject which might be put to him, either upon oath or upon honour. No such thing! He makes up no account: he takes no notice of this letter: he returns to England; and, when he is put in mind of this by the Directors, he seems surprised that they should employ themselves upon such a foolish matter, and then he refers them to Mr. Larkins upon the subject. And, when Mr. Larkins comes to England himself, he tells you fairly and directly that he knew nothing of the matter, more than what he learned from Mr. Hastings on the 22d of May, 1782.

21 MAY 1794.

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He leaves India without furnishing any explanation of the matter.

He refers to Mr. Larkins.

Now, if you look to his evidence upon that subject, you will see what he learned. Had he books—papers—accounts—to compare, with respect to all these transactions? No; two persons came into the room, Cantoo Baboo and a munshi. Cantoo Baboo reads something in the Bengal language, which Mr. Larkins, understanding that language but moderately, thinks he understands, and sets down. The munshi tells him something else, which he translates from the papers read to him—the one in Persian, the other in Bengali. And when he comes to be interrogated here, he states fairly that, with regard to what these papers contain, except what he heard read in the presence of Mr. Hastings, with regard to the dates, authenticity, or any collation or comparison of them which might have made for the purpose of verifying

Mr. Larkins' imperfect knowledge of the subject.

31 May 1794. or falsifying them, he knows nothing; but he saw Mr. Hastings give one scrap of paper to the Persian munshi and another to Cantoo Baboo. And this is the only account which Mr. Hastings, who once offered himself to interrogations upon oath and upon honour, has—through Mr. Larkins to whom he referred—given of these transactions.

What, then, must be the fair interpretation of that? He could not bear the situation he was in; and he could make no answer without discovering his guilt and subjecting himself to punishment. When asked in India he makes no answer, but he comes to Great Britain. When asked in Great Britain he refers to Mr. Larkins, whom he must know we should find equally ignorant upon the subject. Mr. Larkins returns us that account, such as it is; and he comes here and explains it, and says, he had it from accounts kept by different men in different languages, and from Mr. Hastings, and he relies entirely upon the scraps they read; and he translated some scraps they read to him.

In page 2772,—

Mr. Hastings' directions to Mr. Larkins as to the nature of the evidence to be given.

"What reason had you, when you mentioned in your letter the dissatisfaction of Mr. Hastings at the excuses of Gunga Govind Sing, for not mentioning at that time the causes of the dissatisfaction; namely, what the excuses were?"—"Because it did not come within the description given of the information that I was to give." "Description given by whom?"—"I mean the description given in the requisition."

So that it appears that, when Mr. Hastings referred the Company, as it seems, ingenuously and openly, to Mr. Larkins, and wrote to Mr. Larkins to declare all he knew, he wrote to him a particular requisition to state again those facts he had before stated. But when we asked Mr. Larkins, why he did not state what appeared to be the material facts; what were those excuses Gunga Govind Sing had made, and with which Mr. Hastings was dissatisfied; he said,

"That did not come within the requisition made to me." "By whom was the requisition made?"—"By Mr. Hastings."

Therefore that was not what Mr. Hastings desired him to disclose. Mr. Hastings desired him to disclose partially and not generally, but did not ask him to disclose that further part generally which he had disclosed at the bar, with respect to these excuses and all the circumstances that attended this account. And it must have struck your Lordships that, at the time when Mr. Larkins received this account—the 22d of May—in what peculiar circumstances

it was Mr. Hastings had received this money from engage- 21 May 1794.
ments, kabulyats, that were not produced to Mr. Larkins. He had received them through the means of Gunga Govind Sing. He was not present, Mr. Larkins says. So the agent through whom these presents passed was not present, and securities which engaged for them were not produced. Mr. Crofts, into whose hands it must be paid, was not present also, and Mr. Larkins was nothing but a mere instrument in setting down a translation of what somebody read to him from an Hindustani paper, without any opportunity of examination or cross examination, without any comparison to vouch their authenticity, and without the presence of any one of the agents who had either received them from Mr. Hastings or to whom Mr. Hastings had paid them for the benefit of the Company.

Notorious dishonesty of Gunga Govind Sing.

My Lords, it cannot have escaped your Lordships' notice, that, in the whole of these transactions, it now appears, beyond the possibility of doubt, what indeed we thought we had sufficiently proved to your Lordships before, that Gunga Govind Sing was the agent and factor for Mr. Hastings in all these corrupt and illegal transactions, as we call them—in all these secret and, at least, delicate transactions, as they are called by the Defendant and his Counsel. We have shown you that, acting in that capacity of agent and factor to Mr. Hastings, he was either not faithful to Mr. Hastings, or, with the connivance of Mr. Hastings, not faithful to the Company. We have shown you that either he took securities which were not good, because they did not produce what they engaged to produce, or that, having taken such securities, he did not avail himself of them, at least for the sum of 30,000*l.*; inasmuch as it appears that 20,000*l.* of the Patna money, if we are to credit the account given by the other side, remains unpaid, and 10,000*l.* of the Dinagepore money. We perceive further that, with respect to the remaining 10,000*l.* of the Dinagepore money, he acted still more directly unfaithfully with respect to Mr. Hastings, or, by his connivance, with respect to the Company; for though he did receive the 10,000*l.*, we find he did divert it from its proper purpose, as belonging to Mr. Hastings or the Company, by converting it into jewels, which, he states, either truly or falsely, were to be given to Mrs. Wheler. What then must we think of Gunga Govind Sing;—not merely of him whose character has been decided with one voice by witnesses at your bar, but what do you think with respect

21 May 1794. to Mr. Hastings' opinion? I know men will have partialities, and trust to the good opinion they have of individuals against all public report and public opinion; but, if the Council thought ill of Gunga Govind Sing, is it not clear that Mr. Hastings thought ill of him? Did he not know that he had given him unsatisfactory excuses for so large a sum as 10,000*l.*? Did he not know that the excuse he made was an avowal of a most enormous abuse—that he had given the money either of the Company or of Mr. Hastings to Mrs. Wheler? What then are we to look for;—indignation—removal—punishment? No! one of the last actions of Mr. Hastings' government in Bengal is an application in favour of Gunga Govind Sing—in favour of this man, standing in all these suspicious circumstances!

Application in his favour by Mr. Hast- The minutes of the late Governor General—page 1192 of the printed Evidence:—

"The Governor General.—The regret which I cannot but feel of relinquishing the service of my honourable employers would be much embittered were it accompanied by the reflection that I had neglected the merits of a man who deserves no less of them than of myself, Gunga Govind Sing, who from his earliest youth had been employed in the collection of the revenues, [and] was about eleven years ago selected for his superior talents to fill the office of dewan to the Calcutta Committee. He has from that time, with a very short intermission, been the principal native agent in the collection of the Company's revenues, and I can take upon myself to say that he has performed the duties of his office with fidelity, diligence and ability. To myself he has given proofs of a constancy and attachment which neither the fears nor expectations excited by the prevalence of a different influence could shake, and at a time too when these qualities were so dangerous that, far from finding them amongst the generality of his countrymen, I did not invariably meet with them amongst my own."

This is the character which Mr. Hastings gives of Gunga Govind Sing. This is the application he makes in his favour, as one of the last acts which he did while resident in Asia. He commends him, not only generally, but specifically commends him, for his diligence and for his fidelity. How diligent he was you may have perceived by two lacs remaining in balance in the Patna business and one lac in the Dinagepore. With regard to good fidelity, how faithful he was you may perceive, if you believe Mr. Hastings and Mr. Larkins, who tell you that he had received, so early as August, 1780, 30,000*l.* from Dinagepore; that he paid 20,000*l.* in October; and that from that day to this he has paid no more, but diverted the remaining 10,000*l.* for a present, unauthorised by any person to whom, upon any supposition, the money could belong.

If this is Mr. Hastings' idea of diligence—if this is Mr. Hastings' idea of fidelity—I do not wonder that he should think it strange indeed that he should be an accused person in this country, because undoubtedly his ideas must be as wide and as distinct from ours as the places in which he has acted are distant, in point of space, from that in which we have accused him. Our notion of diligence would have been, that Gunga Govind Sing should not have lost a moment in realising the balances that were due; that, if he could not do that, he should state to the Company or Mr. Hastings why he had not been able so to do, and surrender into their hands the securities, that they might avail themselves of them. Our ideas of fidelity would have been, that he should have given that 10,000*l.* in the way Mr. Hastings or the Company directed him, and, above all, that he should not give it in a corrupt present to the wife of one of the Council, without any authority from Mr. Hastings or one of the Council so to do. It is necessary for the remaining part of these charges that you keep in memory what Gunga Govind Sing had done—to what actions of Gunga Govind Sing Mr. Hastings was privy at the time he so recommends him. We have read the periods when he appointed him to the great offices of trust, particularly, as I shall have occasion to state to your Lordships with respect to the fourteenth Article of the charge. 21 May 1794.

Fourteenth Article of the Charge.

I have very little to trouble your Lordships with upon that subject. The Counsel on the other side have supposed that the gist of our cause, upon that subject, lay in a supposed concealment of Mr. Hastings from his colleagues of the circumstance of an offer from the Wazir of ten lacs. It certainly did not consist in that. We stated, not that he had concealed it positively from his colleagues, but that he had not done what it was his duty to have done—that he had not stated it publicly to the Board; and we brought that the rather to illustrate the strange and unaccountable conduct of Mr. Hastings, in every matter which has any relation to pecuniary transactions. In all the transactions we have been discussing hitherto, you will observe that his system was, to conceal from all his colleagues every part of a transaction which related to a receipt of presents; but, in some, he boasts he communicated them by private letters to the Company. **Its purport.**

With respect to this of the Wazir, in February, 1782, he takes a directly contrary course. He does communicate it

21 May 1794. indeed to his colleagues, but keeps it a perfect secret from the Company. We stated this as an instance of inconsistency, in order to drive him to an explanation upon what principle in one case he held a conduct so diametrically opposite to that which he held in others, if there was not a real distinction in the different cases; and if, what we admit to be the case in the last present—I mean, his intention to refuse it—was not the real reason, why his conduct was totally different from and diametrically opposite to what he had held upon former cases, where, we contend, he had intended to receive to his own use and to appropriate to his own benefit.

Argument of Counsel.

The Counsel upon this occasion have, however, stated one argument which it is worth your Lordships' while to attend to. They have said, and I am surprised they should have thought it would make for their client to say, that your Lordships will perceive from this instance, what I am sure I was never desirous to deny, but always contended as a part of our case, that it is exceedingly possible that a prince—a great man or a little man—in that country, might be willing to give a sum to a Governor General which he was unwilling to give the Company publicly. And a great deal of argument is used by Mr. Dallas upon this ground:—you see that, when the Wazir understood it was a present for the Company, the Wazir would not give it; and therefore you see the merit of Mr. Hastings in all the former transactions, because, if he had then done as we contend he ought to have done—if he had stated openly that what he received he received for the Company, he would have had no receipts at all; and then consequently the Company would not have availed itself of those sums which, according to Mr. Dallas, it has.

Admission involved in it of fraud on the part of Mr. Hastings.

The moment I heard that argument I was surprised, because it proves directly that all the former transactions were of a fraudulent nature; for it admits directly that, in the case of all those former sums, Mr. Hastings received them by persons who thought they were giving to him, though in fact they were giving to the Company, and who would not have given to the Company if they had known that had been their destination. Then, upon the face of it, it is admitted that all these former transactions were frauds—pious frauds, if they were for the benefit of the Company; but were frauds, as I contend, of a black dye, inasmuch as they robbed several individuals of money upon false pretences; taking that for

the Company which individuals would never have given if it were known it was for the Company. They gave it upon a supposition it was to be for the profit and use of the Governor General. 21 MAY 1794.

Many considerations arise out of this state of things. You cannot believe that a man would give money to an individual which he refuses to the public, unless he expected some services from that individual. What must be the general opinion of this practice would spread over India—that the Governor General was corrupt; that he would receive for his own use and advantage money which they would refuse to the Company; and that they must expect consequently a correspondent return. This serves to throw a colour of a different nature from what the gentleman states, because it serves to prove that every such transaction was a direct fraud upon the person who gave his money; that he was inveigled into paying money upon a false pretence, and with hopes which never were meant to be satisfied, but which it is contended, for the honour of Mr. Hastings, were in every instance disappointed.

His guilt aggravated by breach of faith.

I never till this instant heard that it was a justification of a corrupt transaction, that you did not perform your part of the contract! I never till this instant heard, of those who had dealt corruptly, that their crime was extenuated by failing in fidelity to the persons with whom they corruptly bargained! But it will be said, Mr. Hastings did not bargain. I say that the gentleman conversant with the law of England will well understand that, if [the person] did not openly and explicitly bargain for it, when he gave the money to the Governor General which he would refuse to the Company, it must be supposed that he was to receive some countenance, favour or indulgence, in consideration of the gift he made. And if the Governor knows that that was his opinion—and they state that he did, because they state he would give that to him which he refused to the Company—then I say, he was by fair implication a party to that corrupt bargain, and did virtually bargain to give to those persons some effect and consideration for the bounty that they, in their opinion, bestowed upon him and not the Company. If it is proved, as they contend afterwards, that in no instance did he favour him from whom he received it, I conceive that an aggravation and not an extenuation of his guilt; for it only shows that, in addition to a disobedience to the law, in addition to a disobedience to his master, he added fraud with respect to

MAY 1794. those with whom he contracted, and received the money from poor, unfortunate and simple, individuals, who thought they gave it for a valuable consideration, which he determines in no instance and upon no occasion to pay. I shall, therefore, leave the fourteenth Article, with only that observation upon it, which is an observation the Counsel suggested, because I don't recollect that they have adduced any new evidence upon the subject of that Article.

The seventh Article.

With respect—and this is the last point with which I have to trouble you—with respect to the other Article, I mean, the seventh, which concerns the revenues, there also very little evidence has been brought upon the part of the Defendant. But, my Lords, the Counsel have taken three particular points, which they have discussed, and upon which I shall make very few observations.

Power of the amins.

The first is the appointment of amins, in which they suppose us to have been incorrect. When they state the extravagant power given to those amins, and when they come to contradict us, what do they do? They produce a letter from the Council General to the provincial council, in which they put them virtually under the direction of these amins; they order them to punish those against whom the amins should complain; in which, in point of fact, they order the council to do what we have stated was in the power of the amins. Now, whether your Lordships will be satisfied with this distinction I know not: I am perfectly sure I am not satisfied with it. I am perfectly sure that, in my way of considering the thing, little difference can be made as to the charge of corruption, whether Mr. Hastings directly appointed amins with distinct power so to act, or whether, having appointed amins, he afterwards gave directions to the other servants of the Company to act under the direction of those amins, and to inflict such punishment as in the opinion of those amins shall seem proper.

If your Lordships will refer to the evidence upon that subject, which is in page 1297, you will find that, though only such things are to be done—which your Lordships will find in page 1288—as shall receive the sanction of the Board, they are to be in the name of the Governor General. And the Counsel have spent some argument in showing the distinction between what might be done in his name only [and] after sanction given to it by the Board. Then comes the sentence upon which we rest:—"and the control of it"—this office—"is to be committed to his immediate charge."

So that the control of this office was committed to the immediate charge of the Governor General, and consequently liable to all that part of the Charge which states the corrupt motive for this transaction, which was intended to put these amins entirely under the distinct control of the Governor General, as distinct and separate from his Council. 21 MAY 1794.

Corrupt motive for the appointment.

The next point is a short one also; I mean, the destruction of the provincial councils. I will not remind your Lordships of all I said upon that subject. The gentleman has prudently avoided answering for the greater and most material part of it; he is only called to state that, with respect to the provincial councils, Mr. Hastings, though he did entertain a good opinion of them in 1776, might possibly change his opinion in 1781. Change of opinion was not what we imputed to him only. But we did state and do restate, that it is something extraordinary that, with an opinion such as he stated in 1776 of the excellency of this institution, conceiving it to be so perfect that he wished an Act of the British Parliament to render it perpetual, within a few years afterwards, without adducing any arguments for the change of that opinion, without showing a change of circumstances and of time, which are generally the causes of a real or the pretence for prevaricating changes of opinion—without stating any change in the times or in the circumstances—he does really, of his own authority, abolish that which he thought so perfect that he wished it to be perpetuated by a British Act of Parliament. But that is the only part they have endeavoured to answer. They have left out this material intervening consideration, that, in consequence of a dispute between him and Mr. Francis, where he certainly states a much more favourable opinion of this provincial council than Mr. Francis, the Company do specially forbid the abolition of these provincial councils.

Abolition of the provincial councils.

Forbidden by the court of Directors.

In page 1165 of the printed Minutes they say;—

"If you are fully convinced that the establishment of provincial councils has not answered, nor is capable of answering, the purposes intended by such institution, we hereby direct you"—

what?—to dissolve them, and to form a new plan, and to establish that new plan? No!—

"direct you to form a new plan for the collection of the revenue and to transmit the same to us for our consideration."

The Directors then seem to be apprehensive lest any bad opinion of the provincial councils should be made a pretext for abolishing that institution and substituting another in its

21 MAY 1794. place. They therefore, upon the consideration of this question, say,—

> "If you should be convinced that this plan is fundamentally bad, form a new plan, but do not put it into execution; send it to us for our consideration."

Disobedience of Mr. Hastings. And there it was that we laid the blame upon Mr. Hastings, —that he did this, not only in contradiction to his own opinion in 1776, but he did it in defiance of the orders of the Company as well as in contradiction to his former opinion, and thereby did commit a crime and misdemeanour; since a disobedience to the Company, [obedience to which] was enjoined by Act of Parliament, is a high crime and mis-misdemeanour.

But upon this some ground is endeavoured to be taken, not so much for exculpating Mr. Hastings as for the sake of endeavouring to use with less respect than it deserves the name of Mr. Francis. Mr. Francis, it is said, objected to provincial councils. He certainly had not so good an opinion of provincial councils as Mr. Hastings. But in what points of view does he object to them?—He says, "I object to them because they are not sufficiently dependent upon the Board at Calcutta." He has not so good an opinion of provincial councils because, though there are several among the provinces, they are too remote to have good information with respect to some of the lands which they are to administer. What does Mr. Hastings do, according to the Counsel? He bottoms himself upon Mr. Francis' disapprobation and destroys them—to substitute what? To substitute a board more dependent upon the Council of Calcutta? To substitute persons nearer to the different provinces they were to administer, and more likely to be acquainted with their local customs? No; he does it for the contrary purposes, to establish a board almost independent of the Board at Calcutta—I mean a new revenue board; and establishing that board to act at a much greater distance from the different parts of the provinces, with respect to the administration to take place, because one Board is to act for the whole!

(Perversion of Mr. Francis' opinion.)

Establishment of the revenue board. We now come to the establishment of the revenue board. It all consists in one word—Gunga Govind Sing! That word contains the whole of the policy. That word contains the whole of the guilt, as I contend—the whole of the merit, as they contend—of that institution. Your Lordships have examined at your bar Mr. Anderson and Sir John Shore.

Sir John Shore is stated to be, and I am told truly is, a friend to Mr. Hastings; yet Sir John Shore, in his evidence, when I asked him upon the subject of Gunga Govind Sing, could not help repeatedly saying that a bad opinion was generally entertained of him. When I put it directly to Sir John Shore—"Would you have named anybody in preference?" He evades a little and says,—"I do not approve the system: I would not have named any native dewan. I would not name any one person. I don't know whom I should have named. I cannot say whom I should have preferred; but positively, distinctly and substantively, I would not have named Gunga Govind Sing."

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Evidence of Sir John Shore.

But is this all the evidence of Sir John Shore? No; the material part remains behind. The material part is that emphatical evidence of Sir John Shore—a great truth, upon which depends the whole of this business:—from the moment that board was appointed, he himself having been a member of it, he himself having known, therefore, the circumstances appertaining to it, he says that that board must be tools in the hand of a native diwan. Who was the native diwan? The diligent, the faithful Gunga Govind Sing!—Gunga Govind Sing, the possessor of these unaccounted balances from Dinagepore and Patna! Gunga Govind Sing, who pretends, falsely I believe, but pretends that he diverted the money of the Company and Mr. Hastings for the purpose of making presents and bribes to Mrs. Wheler! This diligent, this faithful Gunga Govind Sing was the person who, according to the evidence of the partial friend of Mr. Hastings, Sir John Shore, was in fact the whole of the Committee, and in whose hands the Committee, let them consist of whom they might, of able intelligent men, must be as tools in his hands!

Dependence of the board upon Gunga Govind Sing.

My Lords, what therefore is the case? He disannuls the provincial councils and abolishes them. Why?—Because he had not in general had a bad opinion of them, for in 1776 he had a good opinion of them. Here his pretences are contradictory, as in every other part of the Charge. He says, "because faction and incapacity were the characteristics of the different members of this Council;" and yet, when he comes to discard them, he states in direct terms:—"This Council was discarded because it is a bad institution—not for any fault of the members who composed them." There again the Asiatic ideas of Mr. Hastings are unintelligible to our European intelligence. With respect to all of those who had been employed, he gives

Contradictory reasons assigned by Mr. Hastings for the abolition of the provincial councils.

21 MAY 1794. rewards and emolument, but the institution is bad; yet, when he gives the Company an account of his motive for abolishing the institution, he dare not give a bad opinion of the institution, in contradiction to his prior opinion.

Enormity of the appointment of Gunga Govind Sing.

And what does he substitute in lieu of them?—a pretended board of revenue, but, in reality, Gunga Govind Sing: he establishes Gunga Govind Sing, with whom your Lordships now, I trust, are perfectly acquainted. This gentleman jealous of his honour, who cannot bear any stain or any thing that for a moment can tarnish or sully that brightness of honour which he supposes to belong to his character—this gentleman takes Gunga Govind Sing, who had been concerned in all those transactions, who had received money from Dinagepore, from Nuddea and from Patna, as Gunga Govind Sing probably thought, for the benefit of Mr. Hastings, and who conceived himself at least as an accomplice in Mr. Hastings' crimes, though Mr. Hastings knew himself to be innocent—this Gunga Govind Sing who, upon the ground and presumption of being privy to these crimes, had dared to act both unfaithfully and insolently to his master—who had unfaithfully withheld the money—who had unfaithfully abstained from collecting balances—and who had insolently stated to his master that without his authority he had made this present to Mrs. Wheler—this man, who had been guilty of these things, and who would not have dared to be guilty of them but from a supposition that he was privy to transactions of Mr. Hastings which it would be contrary to Mr. Hastings' honour to have revealed—this man, who, if Mr. Hastings has received bribes as we contend, was the broker for those bribes, who, if Mr. Hastings has acted illicitly, was his factor in his illicit acts—this man Mr. Hastings, to his shame, without regard to his honour and reputation, substitutes in the room of all these provincial councils—a useful institution, as he before contended—and gives at once into the hands of Gunga Govind Sing the administration of all the revenues in India. Look at this, with a view to his former character of Gunga Govind Sing!

My Lords, I have said that we have not seen the kabulyat from Patna; we have not seen the kabulyat from Dinagepore. They are stated to be for four lacs each. We don't know whether they are not for forty each. I asked Mr. Larkins if he knew. He never saw them. I asked him if it were more likely that there should be gifts from

those provinces than any other province. He said, he did not know that it was. We don't know, before this new institution, whether Gunga Govind Sing had not received for Mr. Hastings, in all the different provinces of the empire, bribes equal to those received from Nuddea, Patna and Dinagepore. But if we had any doubt of it before, when we come to this transaction of 1781, as I observed in the opening of this business, we hear no more, except in the case of Nobkissin, which is a particular one of partial presents and of partial bribes. Why? Because the whole country was under the government of Mr. Hastings' factors and agents, and he could receive, without the possibility of detection, from every quarter of the country, such kabulyats for presents and peshkush as he had received from Patna, Nuddea and Dinagepore. Before, he was only nibbling; he only took before from Patna, Dinagepore, and from this province and that. But, when he had appointed Gunga Govind Sing, he had then every province at his mercy; and there is not any reason to say that there would be any difficulty or improbability of his having multiplied presents in as great a proportion as the provinces of that empire bear to these three provinces. 21 MAY 1794.

Facilities for corrupt dealing afforded to Mr. Hastings by the appointment.

Upon what other account could he appoint him? Was it for his reputation? That is stated to have been bad. Was it from his personal knowledge of him? We have proved Mr. Hastings knew him to be both unfaithful and treacherous to the person who employed him; that he subjected his property to the rapacity of others; that he subjected his reputation to the foulest imputation, by diverting his money into bribes and presents to the wife of one of the Council. He knew all this, and yet he appointed him. He appointed Gunga Govind Sing, the instrument of his bribes, the holder of the cash he had received from his bribes, his agent in all this illicit transaction! And am I so simple as to believe—are your Lordships so credulous—is it possible for you to believe that the destruction of the provincial councils was not a corrupt act for this purpose; and that the whole drift of that administration [was not] to put the whole administration of the country, under the name of a revenue board, into the hand of Gunga Govind Sing, who had received all the bribes we have stated, who was privy to all the illicit transactions we have stated, and who felt himself strong from knowing that he was in the confidence of all Mr. Hastings' bribes?

21 May 1794. My Lords, much of this, I admit, was stated in the opening. To many of these parts little answer has been given. Where answer has been given by argument, I have attempted to refute it: where answer has been given by evidence, I have submitted to your Lordships such observations as I thought pertinent upon it. I have now nothing more to do than merely to state to your Lordships that we conceive the evidence produced by the Defendant and the evidence produced by us really prove, beyond a possibility of a doubt, the negative of every assertion which Mr. Hastings has at any time made in respect to these pecuniary transactions; that they prove that the money, in most instances, was in the hands of Mr. Hastings some time before it came into that of the Company; that, in one instance, in that of Dinagepore, it was so for a considerable time;—and, speaking to persons conversant with law, we cannot feel any hesitation in asserting that, during those periods, if anything had happened to Mr. Hastings, all these sums were the legal property of his representative; I mean, till they should have been proved to have been obtained contrary to the Act of Parliament and contrary to law. If so, what becomes of Mr. Hastings' duty to the Company? It was not a duty fulfilled upon the moment of receipt, but an after-thought, at different times and at different periods; and consequently we conceive ourselves to have made out, without the possibility of a doubt, not only that Mr. Hastings received these sums contrary to Act of Parliament—contrary to law—contrary to his duty—but that he must have intended many of them, if not all of them, for a time, for his own use and benefit; that they were held for a considerable time for his own use and benefit by his agent, Gunga Govind Sing; and that, in point of fact, a great part of what he either actually did receive or for which he had securities—which I contend to be identically the same thing—has never been paid into the hands of the Company; for aught we know, is at present in the hands of Mr. Hastings or his agent, Gunga Govind Sing; or, if not in their hands in the shape of cash, is certainly in their hands in the shape of kabulyats or securities.

Recapitulation.

We contend further that the non-appearance of these kabulyats and securities affords the strongest ground of suspicion, and something like a presumption that, possibly, the sums for which they are stated to be given may not be found to be correspondent with the fact. We state, above all, that

the system of taking kabulyats and securities, which are not given in to the Company and not shown even to those whom Mr. Hastings pretends, like Mr. Larkins, to have been in his confidence, is a system that leads to every sort of peculation and corruption; inasmuch as it is impossible for us to know what the amount of those kabulyats were, what their number was, what the conditions were of them; and as it is a medium by which any Governor General may peculate to any degree and may receive presents to any amount whatever, without the possible knowledge of the Company and his employers, and, if this mode of defence is admitted, without a possibility of detection. 21 May 1794.

So far with regard to the presents. With regard to the revenues, we only recapitulate to you that we have proved the appointment of amins, contrary to Mr. Hastings' general declared sense, and that it was one of the steps by which he put the administration of the revenues under his own immediate control—and it is to be remarked that the same Gunga Govind Sing, so often mentioned, was one of the chief amins upon this occasion—that he destroyed the provincial councils, contrary to his own good opinion expressed of them, upon different pretences; stating at one time the fault to be in the institution, at another, to be in the members, though every one of these members he either pensioned or rewarded, and though he stated distinctly that it was not their fault. Having abolished them upon false pretences, he then recurred to his bribe-broker, Gunga Govind Sing—his agent, Gunga Govind Sing—and, in direct contradiction to the orders of the Company, who had directed that no new plan should be adopted without having their previous consideration, he did entrust the revenues of all the British provinces in India into the hand of that man, whose general character was bad, and the badness of whose character in pecuniary transactions was particularly known to Mr. Hastings himself.

We contend that his whole mode of acting was utterly inconsistent with an innocent mind; that, on all subjects, men in high situation, if they have proper feelings, will be careful of their honour and reputation, but, of all subjects, the particular ones on which people, even in your Lordships' exalted situation, would wish to have their conduct, clear, perspicuous, and intelligible to all the world, are the transactions that relate to money; that, with respect to these transactions, instead of having been clear and explicit, in all

21 MAY 1794. different accounts which Mr. Hastings has at different times given by himself and his agents of these matters there is no simplicity, no consistency, no truth. And having, therefore, as we think, proved to your Lordships that his conduct has been such all along that it cannot be the conduct of an innocent man, we think we have intitled you to pronounce—what is the direct inference—that he is a guilty man; and that he is not only guilty literally by disobedience to the Act of Parliament, but of many and many aggravated circumstances, which tend to show that, at the time when his language was high, when his pretensions to merit were high and great, he was acting, in pecuniary transactions, in a manner sordid and contemptible.

With respect to his other bribes, his intentions to us appear to be clear; but, with respect to his transaction with Nobkissin, they appear, if possible, in a light still more odious; and your Lordships, upon that point, have only to doubt whether you are to find Mr. Hastings guilty of having received a bribe corruptly, or having, by fraud and by false pretence, got a sum of money into his possession which he afterwards claims as a present, though perhaps it was only really a loan; and that a loan founded, perhaps, upon a demand which the person of whom it was asked did not, in his situation, know how to deny. Having proved, as I said, his conduct inconsistent with innocence, it only remains for your Lordships to do that of which I have no doubt, namely, to find him guilty, upon this Article, of high crimes and misdemeanours.

SPEECH OF MICHAEL ANGELO TAYLOR, ESQ., MANAGER FOR THE HOUSE OF COMMONS, IN REPLY UPON THE FOURTH ARTICLE OF THE CHARGE, RELATING TO CONTRACTS; 23 MAY, 1794.

MY LORDS,—My honourable and excellent friend having already called your attention to the fourth Article in charge against Warren Hastings, Esq., it falls to my lot now to offer to you such observations as shall appear to me to result from the evidence produced on the part of the prisoner, contrasted with that which has been brought forward by the Commons. 23 MAY 1794.

My Lords, when I recollect the talents and abilities of those who have preceded me, their style of argument and their power of eloquence, and at the same time call to my recollection the extent and variety of the Charge committed to my care, I know not in what words to apologise for my presumption in undertaking it, or to solicit your patience and indulgence. My Lords, I must throw myself entirely upon your goodness; only assuring you that I will not wantonly misspend your time or wander into matters foreign to the question before me. My Lords, the question before me is a very dry matter of fact, and therefore I shall not attempt anything but to put it before your minds in a true and correct point of view.

Your Lordships will recollect that the learned Counsel have not in this case, as they have done in others, either opened the case on the part of the prisoner or summed up the evidence that has been given on his behalf. My Lords, I cannot but compliment them upon their discretion; for, with all their ability and their ingenuity, I defy them to extract, even from that mass of evidence which they have produced before you, materials sufficient to wipe away the suspicion that must lie upon the Defendant. And, my Lords, I am sure that, when you come to review their evidence, you will see that, instead of making for the Defendant, it completely establishes his guilt.

My Lords, most of the evidence which has been adduced on the part of the Defendant, as exculpatory matter, was not within the contemplation of Mr. Hastings at the time he committed the acts with which he is charged, but they are now brought forward, for the first time, to screen him from

23 May 1794. the punishment which the Commons think ought to await him. My Lords, this is not mere assertion; for I shall prove to you that, at the time he committed the acts with which he is charged, he recurred to no such excuses as those he has now set up. Nay, my Lords, when he was taxed to his face, in the Supreme Council at Calcutta, he either made no reply, or he boldly avowed the intent which we have charged upon him.

General purport of the Charge.

My Lords, the Charge before you consists of six different points, but all tending to establish the same crime, namely, disobedience to the orders of the court of Directors, and a vast profusion and expenditure of the public money, with a view to assist and make the fortunes of those who were subservient to his interests.

Defence of Mr. Hastings.

Mr. Hastings, in the introduction to his Defence which he offered at the bar of the House of Commons, made use of these words:—"The minister of the empire, if I may compare great things with small, has, in the various emergencies of his administration, the learned judges of the land, general officers of the first authority and experience, merchants of the greatest commercial country in the world, to whom he might apply, and whose opinions on doubtful questions he might command. He could not err under such circumstances." After stating his difficulties, he adds,—"I humbly apprehend that, since it is not the lot of human nature to be exempt from error, some notorious criminality, some criminality affecting the interests which I had in charge, or some well ascertained ground of corruption ought to have been brought against me, before the Commons impeached me."

My Lords, I meet him, now that he has been heard in his defence—I meet him upon that charge. I say, there is against him well ascertained ground of corruption;—corruption, my Lords, not in the present Article perhaps, by which he might benefit himself, but corruption for the purpose of enriching those whom he thought might be attached to his interests, and which, I think, I need not tell your Lordships, is in every point of view, in construction of law, corruption. My Lords, I say that, if the prisoner has erred, he has erred against the light of his own conscience, in direct disobedience to the orders of the court of Directors, which were plain, positive and specific.

Regulating Act of 1773.

Your Lordships will recollect that, by the regulating Act in 1773, it was enjoined that all the servants of the Company should obey the orders that should be sent out to them

by the court of Directors. The words of the Act of Parliament are these :— 23 MAY 1794.

"The Governor General and Council for the time being shall, and are hereby directed and required to, pay due obedience to all such orders as they shall receive from the court of Directors."

I think I need not state to your Lordships that words could not convey a clearer or more direct meaning. The orders of the court of Directors were in my opinion as explicit, that all the Company's business which can conveniently be performed by contract is to be so performed. In Bengal, they direct that all contracts with the conditions be publicly advertised, and sealed proposals received for the same; that every proposal be opened in Council, and preference given to the lowest bidder, provided security shall be offered for the performance. Therefore I think I have not erred in saying that his instructions were clear and explicit. That is in page 1303 of the printed Minutes.

The Directors order all contracts to be advertised.

My Lords, the crime, then, with which the Defendant stands charged is, not only that he disobeyed the orders of the Company, but that he so disobeyed them with a view to benefit his adherents. My Lords, I think I shall be able to show you, that, in the instances in which he has disobeyed these instructions, he has no excuse which may arise from the emergency of any pressing measure; he has no palliation for his guilt by saying, that the instructions which he had received did not suit the circumstances of the case under which he gave the contracts. He has in my opinion no justification of that sort to resort to.

Offence imputed to Mr. Hastings.

My Lords, I will admit to the Defendant this, that, if a delegate, who has instructions given to him from his superior, sees that these instructions do not suit the case before him—that, though the letter of those instructions may apply, the principle does not hit the case—I have no objection to admit to the Defendant that, in that case, he would not only be justified in disobedience to the orders, but I will go so far as this, that he would be almost criminal if, in that particular instance, he had obeyed them. But I can assure your Lordships that, not only he disobeyed those orders, but he has no justification of that sort to plead in his behalf.

Of the corrupt motive with which the Defendant did this, I think you have before you all the evidence of which the nature of the thing is capable. The intention of the mind of man in any act can only be judged of from the circum-

23 May 1794. stances that accompany the act; and Mr. Hastings must look for his condemnation or his acquittal in the motive which, from all the concomitant circumstances, may be supposed to be inferred from the transactions themselves.

My Lords, I shall now endeavour to proceed to state to you, upon each article, the circumstances from which I think you ought to infer corruption. On this corrupt system adopted by Mr. Hastings, its mischievous consequences to the interests of the Company, in whatever point of view you choose to consider them, its fatal effects on every branch of the commerce of the East India Company, I shall not at

Corruption.

this moment enlarge. But, my Lords, let it not be imagined that, if such a system of corruption prevails in India and the author of it is not disgraced and punished, the influence of that corruption will be confined within the province of Bengal, or of Behar, or of Orissa. No, my Lords, that corruption will find its way from India even to these walls. You will have it in the heart of your capital. You will have it in your senate. Corruption, my Lord, is a commodity of free and easy access to any part. Confirm it to be the staple of India, and I defy all your customs and your excise to keep it from the dominion of England. My Lords, you might as well attempt, without the severest penalties, without confiscation and punishment—you might as well expect to prevent the plagues of Turkey and Constantinople from visiting and desolating this happy island. My Lords, with these observations, I proceed to the discussion of the first point in charge.

Contract for opium given to Mr. Sullivan.

The first point in charge is the contract given to Mr. Sullivan for opium. My Lords, I need not, perhaps, call to your recollection that it was in 1773 that the monopoly of this commodity was transferred to the Company; that it was then given, rather by way of a [benefaction], to one Mir Munnir; that in 1775 it was advertised, and the contract given to Messrs. Griffith and Walton, who were the lowest bidders; that, after that, it was given for three years to a Mr. Mackenzie, and then to the same gentleman for one year, and afterwards given by Mr. Hastings to Mr. Sullivan. The contract with Mr. Sullivan was nearly the same as that given to Mr. Mackenzie, saving the exceptions of which I shall have occasion hereafter to take notice. My Lords, this transaction has been defended in various ways. Indeed, my Lords, I must look to the way in which it has been defended, to the speech of the learned Counsel who opened

the general defence of Mr. Hastings, to Mr. Hastings' speech at your bar—I think it was in the year 1791—and to those different statements, which they have given, before they brought forward their evidence. I will first take notice of one speech of the learned Counsel, Mr. Law, which he made when he opened the general defence and adverted to the charge before you. His words are these, which I should wish you to notice: he says, that "the order of the Company, which is stated to be requiring the opium to be advertised and put up to sale, did not comprehend opium at that time, inasmuch as that order"—I beg your Lordships to attend to the date—"is dated in March 1774, and the opium had been acquired by the Company in [November] 1773. Therefore it is impossible that the Company could have notice of the article at the time they made the order, so as to be supposed to include it within the order."* This is the most sweeping argument that can be:—the Company directing, in 1773, that everything in 1774 should be put up to sale, and yet, because the monopoly of opium was not known to the Company, therefore this order, which was a general one, did not apply. But I wonder the learned Counsel should use this argument, because Mr. Hastings did recognise the order—because, in 1775, two years after, the opium was put up to contract, and Griffith and Walton were taken as the lowest bidders. Therefore, if there is anything in the argument of the Counsel, which I contend there is not, it would in no way answer for the Defendant; because the Defendant has recognised the order, and there it stands admitted in 1775.

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Argument of Mr. Law.

There is another argument which I shall now take notice of. I will endeavour to get them all in their separate order. They tell you that the value of the contract was ascertained, because it had been advertised in 1775: it was, therefore, they say, continued to Mr. Mackenzie, and in the same mode continued to Mr. Sullivan, because the price had been ascertained. Now, my Lords, what might be very advantageous to the Company in 1780, might be in 1775 very disadvantageous to the Company; and what might have been very disadvantageous to the Company in 1780 might have been very advantageous to the Company in 1775; but the fact stands before you that, ever since the contract was advertised, the Company had gained considerably. I will only state the progressive profits. The profits on opium to the Com-

The value of the contract alleged to have been ascertained.

* Speech of Mr. Law, in general opening of the defence; vol. ii. p. 672.

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Progressive value of the contracts from 1785.

pany, after the expiration of Mr. Sullivan's contract and of Mr. Hastings' government, in each year, was this:—in 1785,—your Lordships will recollect the contract with Mr. Sullivan was in 1781—from 1785 to 1786, it was 118,380*l.* This is in the printed Minutes, page 2255. From 1786 to to 1787, it is 132,670*l.*; in the year 1787, ending at 1788, 135,216*l.*; in 1788, ending at 1789, it is 148,173*l.*; and so on progressively, from year to year. After the contract was advertised, this doubled everything that Mr. Sullivan paid for it; and therefore your Lordships see that, by advertising the contract, in proportion as opium was better known and the commodity better manufactured, in such proportion did the Company gain; but they gained all this by advertisement, and by accepting the lowest bidder for the contract. However, they tell you that Mr. Francis—indeed they always take care to implicate Mr. Francis if they can, and sometimes they resort to him as a shield where the case presses. On the propriety of that, or how invidious it is to make those remarks upon a gentleman who has no opportunity of defending himself, I shall not trouble you with [any observations]; but there seems a sort of charge against Mr. Francis, and in order to get rid of their defence I shall consider what charge it is. They positively tell you that Mr. Francis gave it to Mr. Mackenzie for three years; that it was at his instance, and that it was by his auspices, under the Board, that it was given to Mr. Mackenzie. Indeed Mr. Law seems to animadvert considerably upon this, and he says,—"If there is any blame [it is] in that grant [made] so recently after the reprehension of the court of Directors; yet Mr. Francis"—which I shall take notice of hereafter—"Mr. Francis concurs in it; or, more properly speaking, he moves it; for it is to the object of his nomination that this contract is granted." Somewhere, I think, they made Mr. Mackenzie a relation of Mr. Francis. Mr. Hastings vindicates himself entirely upon Mr. Francis. He says,—"The value of the contract was first ascertained by auction; afterwards it was given to a friend of Mr. Francis—to Mr. Mackenzie." In short, the whole of this transaction is attempted to be vindicated upon the authority of Mr. Francis. Now, I believe that the Defendant must know, and his Counsel must know, that Mr. Francis, when it was originally given to Mr. Mackenzie, had not the majority in Council. Mr. Hastings had at that moment—I assert it—the casting vote in Council. All the acts about that time were carried by Mr. Hastings. Mr. Francis had no more to

Advantage of advertising.

Attempt to implicate Mr. Francis in the transaction.

do with giving the contract to Mr. Mackenzie than Mr. Hastings or Mr. Barwell had. He was as much the friend of the Defendant at the bar as he was the friend of Mr. Francis; and I can only tell you that I have inquired into the fact of his being a relation, and he certainly was no relation of Mr. Francis. But it is very improbable that, if Mr. Mackenzie was the friend of Mr. Hastings, when the Defendant had the majority in Council, he should at that time have been so lavish in his gifts. I assert—and, if you will look to the minutes, you will see—that, at that time, Mr. Monson was dead, and there remained in the Council Mr. Clavering, Mr. Francis, Mr. Barwell and Mr. Hastings. Mr. Hastings and Mr. Barwell generally agreed; and therefore, even if General Clavering had agreed with Mr. Francis, the Defendant had the casting vote. But, my Lords, did he attempt anything of this sort at the time? If you recur to the Minutes, you will find no such minute entered by Mr. Hastings—no reason grounded upon Mr. Mackenzie for giving it to Mr. Sullivan: nothing of the kind. That was an after-thought, suggested to him, as an invidious remark which he thought he might make against an individual, and who he knew could not, in his place, answer it. If the Counsel for the prisoner had thought proper to have admitted Mr. Francis into that box, to be examined as a witness in reply, I would have shown from the mouth of Mr. Francis that there is not one tittle of truth in this assertion. My Lords, I am not very willing—I am sure, in the situation in which the Defendant stands, I am not one of those who wish to say anything harsh of him; but I must, my Lords, do my duty in this instance, and I say that the charge against Mr. Francis is false, even upon their own evidence. Mr. Law tells you that he rather thinks it was moved by Mr. Francis. He proved the contrary. I will read you the minute—the only minute he has ventured to offer to you. The minute is neither more nor less than this:—

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His position in the Council at the time.

Denial of the imputation.

"Resolved,—that such a contract should be granted to Mr. Mackenzie."

There is no mention made in the minute of Mr. Francis: there is no mention of any motion of Mr. Francis. The simple thing is,—"Resolved,—that the contract shall be given to Mr. Mackenzie." Upon the letter which Mr. Mackenzie sends in to the Board, therefore, I say, and am grounded in saying, that this insinuation against Mr. Francis

23 May 1794. is invidious, and that it is, upon their own evidence, absolutely false. But the Defendant tells you that he had found out the real price at one time, and that the lowest bidder was ascertained by the contract of 1775 with Messrs. Griffith and Walton. Now how does it turn out? You have, not only the evidence I read—that, after the contract expired with Mr. Sullivan, the Company gained twice as much—but, in the very instance when it was given to Mr. Sullivan, under what terms did Mr. Sullivan take it? Mr. Sullivan for that contract for four years got 40,000*l.* from Mr. Benn. Mr. Young gave Mr. Benn 20,000*l.*—besides seven thousand pounds which had been sold before. If you will turn to the printed Minutes, page 1320, you will see this evidence: it is Mr. Benn's examination:—

Mr. Sullivan's profit on the transfer of the contract.

Evidence of Mr. Benn and Mr. Young.

"Whether you could have afforded to give to Government the same profit you gave to Mr. Sullivan, if the contract had been advertised?"—"Undoubtedly I could."

Then comes Mr. Young again, after Mr. Benn. Mr. Young, your Lordships recollect, gave 20,000*l.* in addition; besides that Mr. Benn had sold seven thousand pounds before. It is in the printed Minutes, page 1324:—

"Would you have taken the contract from Government upon the terms you took it from Mr. Benn in 1781?"—"I certainly would."

So here is plain and positive evidence that, at the very time when he gave Mr. Sullivan the contract, if he had advertised it, there were persons in Calcutta who would have given him 67,000*l.* for this contract which he gave to Mr. Sullivan. So that the loss upon that contract to the Company was 67,000*l.*

But the court of Directors are sometimes quoted to favour Mr. Hastings. I cannot conceive they will in this instance quote the opinion of the court of Directors, for the opinion of the court of Directors is positive upon that subject. They reprobate its ever having been given without advertisement:—

Reprimand addressed to Mr. Hastings by the Directors.

"We observe," they say, "Mr. Mackenzie's offer was to pay 10,000 sicca rupees *per annum*, as a consideration for holding the opium contract on the terms of his predecessors, and for being indulged with such additional advances of money as he might require. These proposals you accept, without acquainting the former contractor or any other person with the terms therein contained. But, after two years' experience of providing opium by contract, you should have ascertained, by advertising for other proposals, whether the price hitherto paid to the contractor had been reasonable, or whether any other respectable person would engage to provide it on terms more advantageous to the Company;

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and, as you acted otherwise, and, so far as appears to us, concluded a contract of great importance without advertising for proposals or making previous inquiries necessary to guide your judgment therein and to warrant the measure, we therefore must disapprove your conduct on that occasion."

Therefore you have the opinion of the court of Directors upon the impropriety of not advertising the contract. My Lords, the Counsel by their look seem to think—and I know what they mean—that this letter came out before the last contract was given to Mr. Mackenzie. I have before told you that you have only their assertion that that contract was moved for by Mr. Francis, against the positive assertion of the Minutes. "That the contract of Mr. Mackenzie for the provision of opium be prolonged to one year," is all that is said upon the Minutes. But then the Counsel jump to a very hasty conclusion indeed, and I will read to you what it is the learned Counsel says:—"Now, my wonder is that this should have been omitted as a subject of charge," —namely, the last year's contract with Mr. Mackenzie,— "that, when the honourable Managers were selecting an instance to which they should attach blame, [they should omit—by a miracle it must be—that it had been granted to the *protegé* of Mr. Francis in 1780. To jump over that, and to attach blame in granting it] in the year 1781 by Mr. Hastings to Mr. Sullivan is singular." He says,— "But these things happen to the best informed, and the most enlightened and liberal, minds, but it is singular; for in 1781 the terms of the contract with Mr. Sullivan are the same."* I shall show you by and by that they are not the same. Now I think the wonder would have been, if the House of Commons had thought proper to have inserted Mr. Francis in this Article of charge, for anything he had done for Mr. Mackenzie. I will for a moment suppose that Mr. Mackenzie was a friend of Mr. Francis. It is not one act that shows corruption, but it is many; and the Defendant and his Counsel must know that, if it had been for only one slip or one error, the Defendant never would have appeared at your bar; but it is that mass of guilt—that mass of corruption—which has induced the Commons of England to place him where he, unfortunately for himself, is.

Argument of Counsel from the contract with Mr. Mackenzie.

My Lords, I shall show you that there are evident marks of a corrupt intention in this transaction. In the first place,

Corrupt intention imputed to Mr. Hastings.

* Speech of Mr. Law in opening the defence; vol. ii. p. 674.

23 MAY 1794. I should wish to recall to your recollection who Mr. Sullivan was. Mr. Sullivan was the son of either the then Chairman or the late Chairman of the court of Directors. Mr. Sullivan had been, I believe, but six months at Bengal. He was perfectly unacquainted with the manufacture of opium. It was as new to him as it was, perhaps, to any person in this country. Yet this is the person selected by the Defendant for the contract of opium. Now, my Lords, I will just call to your recollection the reason which Mr. Hastings gave, why, in 1773, he offered the contract to Mir Munnir. It is in the printed Minutes, page 1303: it is a resolution of the Board in the year 1773:—

His reason for offering the contract to Mir Munnir.

"Resolved,—that an exclusive privilege be given to [Meer Manneer, the successor of Meer Ashraf, for providing opium in the Bahar province: that he shall engage to deliver in Calcutta all which may be produced in the Bahar province at 320 sicca rupees, of the Nabob Shuja-ul-Dowlah, at 350, agreeably to the annexed writing, which shall be sent to Patna for him to execute; that he shall deliver to the Dutch the usual quantity with which they have been supplied at the customary price; that half the money shall be advanced immediately and half on the delivery of the opium; that the quantity delivered to the Company shall be sold on their account by public auction; and that what may be required for the settlement of Balambangan shall be reserved for it, and invoiced at the medium price of the sales at the auction. The Board are induced to give this exclusive privilege to Meer Manneer in preference to any one else, because, being the person who has for some years been employed by the gentlemen of Patna in this business, he is the best acquainted with the proper mode of managing it, and will account with them for any advances which they may have already made]."

Unfitness of Mr. Sullivan.

Yet Mr. Sullivan has the contract, who had only been in Bengal six months, and consequently could know nothing about the manufacture. There is Mr. Hastings' own declaration, and the declaration of all the Board, that it was given to Mir Munnir because he did understand it. So that you have the Defendant acting, when he gave the contract in 1781 to Mr. Sullivan, directly contrary to what he had asserted in 1773. But, to show that it does require some little knowledge, I beg to call your attention to the printed Minutes, page 1323. This is part of a letter which was given in to the Board by Messrs. Griffith and Walton, when they were induced to offer themselves as the persons to take the contract; they state:—

"The manufacture of opium is an art which requires long experience, joined with the most minute attention [to become master of. I had made it an object of my particular enquiries long before I undertook my contract, and am convinced] that great improvements may be made on

the present mode. This however cannot be hoped for but by the continual study and observation of the contractor." 23 MAY 1794.

So that this contract is given to a person wholly unacquainted with the article, when you have it upon your Minutes that a man only ought to have it who is thoroughly conversant in the mode of managing opium.

Mr. Hastings says, he gave it to Mr. Sullivan because it was absolutely necessary in such a case, as in many others, to have a man of credit, honour and property, upon whom he could depend. I don't question but that Mr. Sullivan was that man of honour and property. I have no connexion with Mr. Sullivan, but I suppose he is a man of character. That I should take every person to be till I know the contrary. But was there no other man of honour and character to be found? Because a man is a contractor, is he therefore not a man of honour and character?

Sale of the contract by Mr. Sullivan.

But, my Lords, the best of it is, that this gentleman never executed the office. He sold it before it was actually given to him. He sold it in November, 1780, and it was not given to him, I believe, till April 1781. The Defendant says, "It seems Mr. Sullivan sold the contract." Why, it was given to him for the express purpose of sale. It could have been given for no other purpose. What is the evidence upon that? Mr. Benn tells you, that, in November—that is, five or six months preceding the time the contract was moved for by Mr. Hastings in Council—he had conversations with him upon the subject of opium, and that then he agreed to give him 40,000*l.* for his contract. Mr. Sullivan lived with Mr. Hastings and his family: he was the intimate friend of Mr. Hastings: he was a person sent out to Mr. Hastings to be provided for. Then does any man think it reasonable that, half a year before the expiration of a former contract, he should tell Mr. Sullivan—"Here is a contract I give you. You know nothing about the matter, but I give you that contract"—and he moves for it in six months after;—can any man alive believe that Mr. Hastings did not give it to him for the purpose of sale?

He accompanies Mr. Hastings to Benares.

But Mr. Hastings assists him a little further. What the consequences of that assistance were I do not know, but he had no sooner got this contract than he carried him up with him to Benares. So that, having given to Mr. Sullivan a contract which required great diligence and great attention, he immediately carries him up with him to Benares. What was he to do with the contract when he was at Benares?

23 MAY 1794. Mr. Hastings knew, as well as any man in India, that the contract if not executed by the party must prove a loss to him; and yet he takes this gentleman, immediately after his signature to the contract, with him up to Benares!—What Mr. Hastings did at Benares your Lordships have had before you on the preceding days; but I draw from this a strong inference of his guilt—that he gave the contract with the sole view of enriching this gentleman.

Abolition of the office of inspector. But Mr. Hastings gave him another lift, for he abolished the office of inspector. Now I shall call to your recollection that this office of inspector was thought necessary by the Board; that the office of inspector had been established ever since the monopoly of opium was transferred to the Company. And I shall hereafter show to you that it has been thought so material a thing, that it has been again established by Sir John Macpherson and Lord Cornwallis. But, my Lords, he abolished this office; and your Lordships will find that it is not till a year after that any regular officer, like the inspector of opium, is thought of. Indeed there is one thing that happened some time after the contract was given, that is, in November—the contract, I think, was given in March or April:—the Governor General was absent, so it is not his act:—

> "As, by the late regulation of the Board of Bengal and Bahar, opium [is now dispatched to the Presidency by the contractor, without the usual certificates of the quantity and quality of it—agreed, that Mr. Geo. Williamson] be appointed to receive the charge of opium."*

But your Lordships will find that this is two or three months after the commencement of this contract, and he is only to report upon the quantity and quality. But, if you refer to page 2232, you will find there is no person expressly appointed to report on the quality till the 9th of August, 1781, that is, fourteen months after the contract was given. Now, what does Mr. Hastings himself say with respect to the manufacture of opium? He says, opium was of a nature so liable to frauds and adulterations, that it was detrimental to the interest of the Company to give the contract upon low terms. Here you have the Defendant's admission that opium was subject to frauds; that an inspector was established; that that inspector continued from 1773 down to the contract to Mr. Sullivan. But, the instant he gives the contract to Mr. Sullivan, he abolishes the office of inspector.

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* Printed in the "Minutes of the Evidence," p. 2232.

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If Mr. Hastings did not mean, somehow or other, to favour Mr. Sullivan, why did he make all these innovations? But he goes on still further; for your Lordships will recollect that in the contract there was a penalty upon failure. Mr. Hastings did not know how Mr. Sullivan might manage the business, and at one moment he lowers the penalty a half. You see, therefore, that he not only abolishes the office of inspector—he not only gives the contract upon reasonable terms—but he immediately abolishes half the penalty, lest the contractor should not even fulfill that easy contract which he had. Now couple this with what I have stated, and, if it is not corruption, as far as any evidence can be given of a corrupt intention in a Defendant, I never saw anything of that nature proved in a court of justice; and I am sure your Lordships, who have long sat in courts of justice, will admit that, before a jury, corruption would be inferred from these circumstances.

Further indulgence shown to Mr. Sullivan.

My Lords, the Counsel have always been very desirous of recurring to Lord Cornwallis and to Mr. Macpherson for their justification, and you will find different extracts in their evidence respecting the continuance of the monopoly of opium to the Company and its advantages. Now it happens, unluckily for the Defendant, that the very circumstance which the Counsel offers in his defence is the very circumstance that, in my opinion, will show you the impropriety of his conduct; for the office of inspector was re-established, when advertisements were made for the contract under the orders of the court of Directors, both by Sir John Macpherson and Lord Cornwallis. Therefore their best evidence fails them; because, in the instance of Sir John Macpherson and Lord Cornwallis, the very office is established which Mr. Hastings abolished. But, my Lords, they have rested another point upon the evidence of Lord Cornwallis. They say that the revocation clause was necessary, because they had the opinion of the court of Directors that they would continue the monopoly of opium.

Re-establishment of the office of inspector, under Sir John Macpherson and Lord Cornwallis.

We have not charged Mr. Hastings with any crime in having got that monopoly for the Company. The crime we charge him with is, not advertising for proposals, and not putting in the contracts the same terms that usually were put in the contracts. We charge him, in addition to the circumstances which I have just mentioned, with leaving out the revocation clause. Did Sir John Macpherson leave out the revocation clause? Did Lord Cornwallis leave out the revocation clause? No; there is not one article of any contract of magnitude to the Company in which those three

Omission of the revocation clause by Mr. Hastings.

23 MAY 1794. points have not been included; namely, the revocation clause; the penalty—in Sir John Macpherson's [time] it is double what it was in the case of Mr. Sullivan; and you have also public advertisements, made by the very witnesses to whom they recur for their justification.

But, my Lords, Mr. Hastings perhaps will tell you that the office of inspector was not necessary; that, as he had got a gentleman of unquestionable character, he had no occasion to look to anything of that nature. My Lords, if you will only have the goodness at any time to turn to Flor's report, which he made to the Council upon the subject of opium, you will there find the immense quantity of frauds that are committed; and that will show you that this very circumstance alone, of not introducing an inspector, is enough to convict the Defendant. Flor's report is in page 1316 of the printed Minutes: it is dated the 1st of April, 1777. He says;—

Flor's report.

"I have examined 269 chests of Rungpore opium received from the provincial council of Dinagepore, and this day dispatched by me to the Presidency, on account of the honourable Company. From repeated trials, there appears a very small portion of the gum resin which constitutes the essential characteristic of genuine opium; but I find, after solution, a gritty sediment, partaking of a sour fermented scent, which indicates a mixture of a pernicious vegetable substance foreign to the juice of the poppy."

And yet, my Lords, this office is abolished! I do not know that, upon this head, I shall have any occasion to trouble your Lordships further; and I shall therefore endeavour to recapitulate to you, very shortly, the business relating to the smuggling of opium, which is the second point in the Charge.

Expedition organised by Mr. Hastings, for the purpose of smuggling opium into China.

My Lords, you will recollect that Mr. Hastings tells you that opium was so plentiful in Bengal that he could find no sale for it, and he therefore thought it right to see if some other channel could not be found out for it; and therefore he engages in a smuggling expedition to China, with a view, as we say, to favour certain individuals who were to profit by a loan which, for the purpose of conveying this opium in a smuggling way to China, was to be made by the Council.

Corrupt motive.

My Lords, the Counsel for the Defendant think they have got a great deal, because they have misrepresented the ground upon which the Managers have introduced that evidence. We say that it was in order to favour certain individuals. The dates here are very material. They said they would show that this loan was publicly advertised for in the month of July preceding, and it was general for all the servants.

Now they wish to show that we have been guilty of an inconsistency, inasmuch as we have said that the loan was open for certain individuals, which individuals were not named by Mr. Hastings till October, and the loan was opened in July. Now the fact is, that we only introduce the minute to show that Mr. Hastings knew and approved of the transaction, which, by the way, he had said was Mr. Wheler's. Mr. Hastings, knowing the advantage of this loan, and knowing the mode in which the fortunes of his friends might be transmitted to England in the way of this loan, sends an additional list, three months after:— 23 May 1794.

"If the loan is not filled, pray give a little of it to eighteen or twenty gentlemen whose names I here enclose."

This was after the capture and plunder of Bidjey Ghur. In order therefore to clear the ground from any attempt on the part of the Counsel, I only need beg you to recur to the dates and to Mr. Wheler's minute. Mr. Wheler when he brings it forward says, it was by the desire of Mr. Hastings. It was not Mr. Wheler's plan, whatever Mr. Hastings may say: it was his plan in concert with Mr. Wheler. It was his plan to open the loan, to benefit Mr. Watson and Mr. Thornton. It was his plan, to benefit those who were to transport this commodity in this smuggling way to China.

Approval of the adventure in part by the court of Directors.

But there is another thing which I wish to call your attention to. I confess the subject is a very dry one, because in replying to the Counsel I am obliged to go to all their minutes, therefore it is not so entertaining, I am afraid, as I could wish to make it. They attempt to show, however, that the Company were by no means adverse to this adventure to China, but, on the contrary, they would have you believe that they approved of it. Your Lordships will recollect that the court of Directors only approved of one part of the transaction. They only approved of the transaction in which the ship Betsey was concerned. Now the ship Betsey was consigned to the Malay Islands. Opium was not prohibited in the Malay Islands, but was prohibited in the ports of China. If it is carried into the ports of China, the vessel is burnt and all the cargo is confiscated. They endeavour to impress you with an idea that the court of Directors did approve of this smuggling expedition to China, inasmuch as they approved of that to the Malay Islands. Observe what the court say upon that subject—

"With regard to the consignment of 2,000 chests of opium [immediately to the supra cargoes, to be disposed of in such manner as they shall think proper, we have been informed that the importation of opium to

23 May 1794. China is forbidden by the Chinese Government on very severe penalties. The opium on seizure is burnt, the vessel on which it is brought to the port confiscated, and the Chinese in whose possession it may be found for sale punished with death. Under any circumstances] it is beneath the Company to be engaged in such a clandestine trade."*

Yet this was the trade in which the Defendant thought proper to engage the Company.

They prohibit further transmission of opium to China.

"We positively prohibit any more opium being sent to China on the Company's account."

Can you have language more strong, of persons who actually were acquainted with the business, than you have of the court of Directors against the Defendant? I should therefore think that there is no part of the defence which the Defendant has set up, in answer to that which the Managers have brought forward, as to this smuggling expedition to China, that he can rest upon, or in which your Lordships can find any reason not to think that he engaged in this for purposes which were best known to himself, but which I assert and which I insist, on the part of the Commons, was to favour Colonel Watson and Colonel Thornton.

But, my Lords, I shall now call your attention, before I conclude this article, to a very singular mode of defence set up by the Counsel. They are always fond of recurring to anything that has passed since Mr. Hastings left Bengal; and whom, do you think, have they brought as a witness on the part of Mr. Hastings? The very person who suggested, as Mr. Wheler says, to the Council this smuggling expedition to China. Your Lordships recollect that the smuggling expedition to China was in 1781. The evidence brought forward is a letter in 1785. That letter is a curious one, and I beg to read it to you: and yet, my Lords, I do assure you that this is the best defence that they have for the Defendant. It is in the printed Minutes, page 2811.

Letter from Col. Watson.

"The honorable John Macpherson, Governor General, President, &c. Read the following letter from Colonel Watson:—

Par. 2. In consequence of the commutation tax which past into a law last year, the court of Directors immediately began to carry their plan into execution, [and for that purpose, it is well known, have dispatched this season eighteen or twenty chartered ships to China, in hopes of being able to bring back a sufficient quautity of teas for their home consumption, without being again under the necessity of supplying their wants by the aid of foreign companies or adventurers. In this great and uncommon attempt, they appear to have rested their sole dependence for extra resources entirely upon this Government, as I do not hear that one dollar in specie has been put on board any of their ships.

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* Printed in the "Minutes of the Evidence," p. 2810.

3. This extensive object, so important to the Company and to the revenue of the mother country, so beneficial to our own commerce, and so ruinous to that of our competitors, is well known] to be a favourite project of the present minister, whose reputation must be inevitably greatly affected by its success or failure. For if the supplies of tea by the Company's ships should fail, the commutation tax will then most certainly be execrated throughout the nation, and Mr. Pitt's plan, although founded in the soundest policy and wisdom, be perhaps the very means of removing him from his present exalted position." 23 MAY 1794.

So, my Lords, they justify a transaction in the year 1781 from a circumstance which passed in this country in the year 1785. Therefore the Defendant must have been a capital prophet, or he certainly must have been exceedingly well acquainted with the views and intentions of Mr. Pitt, for he justifies an act in 1781 and 1782 upon a law which passed in this country in 1784, and of which no notice could arrive in India till 1785. And Mr. Watson comes forward upon this plan: this same gentleman who, I dare say, meant perfectly well—I have not the honour of knowing him—he comes forward and desires they will engage in the same smuggling business. The Council and the Directors at home reprobate the transaction, and say they will not be concerned in the transaction; and in the strongest terms and language they reprobate the whole of it. And yet this, I assure your Lordships, is the best witness they have brought forward in support of their cause. I beg your Lordships' most serious attention to this evidence, in pages 2811 and 2812. I do beg your Lordships to read this with attention, because it is the substantive part of all his defence, and you will see upon what ground that defence rests. So much for the transaction of smuggling opium.

Contract for bullocks with Mr. Crofts.

The next point in charge is the bullock contract, which was given to a Mr. Crofts. And, though I passed over the last head, namely, the smuggling of opium, in a short way, it was not that I thought it less ill on the part of the Defendant, but I did it knowing that I had four charges of great consequence remaining behind: and, my Lords, I am afraid that I shall tire your patience by these four charges, but my duty must be performed. I will endeavour to give you the heads of it as regularly as I can. The next point in charge is the bullock contract, which, I have just told you, was given to a Mr. Crofts in the year 1777. Mr. Hastings accepted of some proposals, which were offered by a Mr. Johnston, for providing draught and carriage bullocks. He did not advertise for any proposals, though he was expressly

23 May 1794. ordered so to do. A year and a half before the expiration of this contract, he thinks it will be more advantageous for the Company to enter into a new and a much higher contract.

Distinction between draught and carriage bullocks.

Before I proceed, I will only call your Lordships' attention to the difference between draught and carriage bullocks. In all contracts, till that upon which I must trouble you, draught and carriage bullocks were separated; for the one was paid a considerably higher price than for the other. You will find in the contract granted to Mr. Crofts that, for the first time, draught and carriage bullocks are included in the same price and put upon the same terms. However, eighteen months before its expiration Mr. Hastings thinks it right to grant a new contract; and his plea for this rested upon statements and letters of General Stibbert, and, as he says—which I shall have occasion to controvert presently—upon the basis formed by Sir Eyre Coote. Mr. Hastings therefore says that it was dissolved upon the complaints of the army. I admit that there were letters of General Stibbert complaining of the badness of the bullocks.

Dissolution of the previous contract.

Mr. Hastings attempted in the last question, namely, the question of opium, to vindicate himself by an ignorance of the price of opium. I am glad to see that he does not venture to vindicate himself upon not knowing the price of bullocks; for I have only to tell your Lordships that it is a matter upon which he ought to have been exceedingly well acquainted, inasmuch as he had, for two or three years, and at different periods, a contract for the supply of bullocks, and, I believe, one contract was discharged because the bullocks were too bad for service. Therefore, I say, he cannot plead ignorance with respect to the bullocks; for, so early as the year 1760 or 1761, he had a contract himself for the supply of that article. But the Counsel say that they will show that the subject of the bullock contract was brought before the Board by Sir Eyre Coote. The dates here are very material. In July, 1779, your Lordships will find in the printed Minutes, page 2259, he states that the contract was made upon the basis and foundation of the regulation brought forward by him in his capacity of Commander-in-Chief. For which purpose, they would refer to the minute of Sir Eyre Coote in the printed Evidence, page 1345. My Lords, I beg you to attend to this, because I will show you that it is the direct reverse of Sir Eyre Coote's plan; that Sir Eyre Coote's plan was only for 4,074

Similar contracts held by Mr. Hastings himself.

Number of bullocks required, according to

bullocks; that the contract given to Mr. Johnston was for 6,700 bullocks. If your Lordships will have the goodness to turn to page 1345, you will find the consultation to which Mr. Hastings' Counsel refer for his defence: it is a consultation of the 15th of July, 1779.

23 May 1794.

The plan of Sir Eyre Coote.

"Present—Warren Hastings, Governor General, Richard Barwell, Philip Francis and Edward Wheler, Esqs. Not present—Sir Eyre Coote."

A note is sent by Sir Eyre Coote to this effect:—

"The remark offered by General Stibbert, in his letter of the 22d September, 1778, on the present state of the draught and carriage bullock trains, required their immediate attention. As we are now in a state of war, I deem it necessary to set forth the indispensable necessity of having these trains put in the best order possible, [as the success of every operation in war depends eminently on the good or bad condition of the artillery trains. As, therefore, service may be expected, and if the well-ordering of this train can only be effected on the increased charges specified in the annexed plan, it must be paid]. For the draught of regulations I am indebted to the Governor General."

But it happens, my Lords, that this is not Sir Eyre Coote's plan; for carry your eye a little further on to the minute, and you will find on the consultation of the 3d of August, 1779, Sir Eyre Coote's plan. "Present in Council—Warren Hastings, Governor General, Richard Barwell, Philip Francis, Edward Wheler and Sir Eyre Coote." He was then present on the 3d of August: he was absent on the 15th of July. He then gives in his plan which I will state:—"Abstract of the Artillery, etc. for a brigade in the field." Now a brigade in the field was to consist—I have cast them up accurately—one brigade in the field was to consist of 789 draught bullocks and 569 carriage bullocks. There were three brigades to be in the field, by this plan of Sir Eyre Coote's; that amounts to 1,358. Multiply that by three and there remain 4,074 bullocks, carriage and draught. The contract with Mr. Crofts, Mr. Hastings says, he made upon the basis of Sir Eyre Coote's. This is for 6,700 bullocks. Upon what ground, therefore, do the Counsel tell you that this was made upon the plan of Sir Eyre Coote?

Large excess provided by the contract.

But, my Lords, am I single in my opinion upon this? I will show you the court of Directors afterwards expressly take notice of it, if your Lordships will have the goodness to turn to page 1372 of the printed Minutes. Here is what the court of Directors say:—

Censure of the bullock contracts by the court of Directors.

"The offer made to the contractor for five years, without advertising for proposals, appears to us highly improper. We are nevertheless of opinion that, provided the terms were reasonable, it might not for

23 MAY 1794. obvious reasons be for the good of the service, in time of war, to renew the bullock contract every year."

Perhaps the remarks of the court of Directors there may be just as well as the others. I shall show hereafter that they were just. After finding fault with giving the contract for five years, they say,—

"We therefore direct that, in future, no greater number of draught or carriage bullocks be entertained, to be paid for by the Company, than shall be necessary for the service. The number of bullocks," they tell you, "to be ascertained by the terms of the contract; the compensation to be made in case of reduction; the advanced price for provision [and feeding, and the term for which the contract is extended, are objects which demand our consideration. We shall state the principal facts on your records, and then proceed to give our sentiments and instructions on the points above mentioned]."

They then state Sir Eyre Coote's plan, and they afterwards sum it up thus:—

"Sir Eyre Coote's plan is 4,074. The contract is for 6,700. The excess above the number established by the General, to be attached to the three brigades, is 2,626. There appears to us an inconsistency in this part of your plan, for which we cannot account."

Then they go on to censure the contract;—that by this new contract no distinction is made between draught and carriage bullocks; admitting, they tell you, as they do, that the increase of charge to the Company was inconsiderable.

"Your proceedings were totally irregular."

This applies to Mr. Johnston's contract.

"Your acceptance of Mr. Johnston's offer was a deliberate breach of your duty: you refused to advertize for proposals though you were expressly commanded to do it."

And then Mr. Hastings, having this injunction given him by the court of Directors, instead of obeying their orders, though they had censured the contract given to Mr. Johnston for three years, gives it directly to Mr. Crofts for five years. He increases all the rates: he makes no distinction between draught and carriage bullocks.

I will only advert to one circumstance—that wherever Mr. Johnston in his contract was paid at the rate of two rupees, Mr. Crofts was paid at the rate of nine rupees. This is the contract which Mr. Hastings thought it right to give Mr. Crofts; and he thought it right, in order to give the contract to Mr. Crofts, to buy out the term which Mr. Johnston had in his contract, namely, eighteen months

unexpired of the three years. Therefore, in every instance, instead of adverting to the orders of the court of Directors, he has wilfully and deliberately broken those orders. He has erred against the Act of Parliament. He has erred against the instructions that, I before told you, were sent out to him; and I say that, for so doing, he is guilty of the crime which we charge to him.

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Disregard of orders on the part of Mr. Hastings.

But, my Lords, I do not mean to rest it here; but I shall show that the establishment for draught and carriage bullocks which was made by Lord Cornwallis, to whom he refers, does not amount to more than one half of the bullocks included in the contract of Mr. Crofts. My Lords, I beg to call your attention to the printed Minutes, page [2815], where there is the proceeding of a military board that was held on the 6th of June, 1791. "Colonel Alexander Mackenzie, Acting President, Colonel [George Deare]",—they were all gentlemen in the army, "Colonel John Murray, Lieutenant-Colonel Mark Wood, Lieutenant-Colonel Peter Murray, Major Samuel Dyer; Lord Cornwallis, Chief President, absent on service."

Number of bullocks required by Lord Cornwallis.

Now, here you have a military committee sitting to arrange the number of draught and carriage bullocks, and your Lordships will find that, in that establishment, there were only 3,609. So that Sir Eyre Coote's plan, which was for 4,074, was reckoned a pretty liberal one: Lord Cornwallis' plan was 3,609: Mr. Hastings' plan was 6,700 bullocks. The difference between them is 3,091. So that this plan of Lord Cornwallis' is not half of that of Mr. Hastings'. You have Sir Eyre Coote's plan, which is 2,600 short of anything that Mr. Hastings had proposed; and yet Lord Cornwallis is the person upon whom Mr. Hastings attempts to justify this and many of his acts. I ought to tell you that the plan of Lord Cornwallis was an enlargement also of the former contract.

I have before stated that, on the 3d of August, 1779, Sir Eyre Coote gave in his plan; that Mr. Hastings, at the end of the month of August, recognised and confirmed the plan of Sir Eyre Coote: and, between that and giving the contract to Mr. Crofts, he alters the business, and he makes on the 1st or 2d of September the contract to Mr. Crofts. So that on the 3d of August Sir Eyre Coote gave in his plan; at the end of August the Defendant adopts the plan; in the beginning of September, without any knowledge

Unwarrantable change in Sir Eyre Coote's plan effected by Mr. Hastings.

23 May 1794. whatever of Sir Eyre Coote, he changes the plan and gives the contract for 6,700.

Why, my Lords, I know not what defence the prisoner can set up, but he has attempted to set up one which I shall advert to hereafter. When I opened to you this business, I told you that the Defendant had recurred, upon the original commission of these acts, to no such defences as he has lately set up. I told you that, when he was taxed in Council with the enormity of these acts and of these contracts, he either made no reply or he avowed the profligacy of them. Your Lordships will judge whether I have stated it too strong, by the minute which I shall read to you. When the contract to Mr. Crofts was so proposed by Mr. Hastings, I say, in direct contradiction to the plan of Sir Eyre Coote, there are minutes in Council which I think very well worthy of your attention.

Protest of Mr. Francis and Mr. Wheler against the execution of the contracts.

My Lords, I must of course have occasion again to mention Mr. Francis. Mr. Hastings wishes sometimes to resort to that gentleman as a witness for him. I shall take the liberty of recurring to that gentleman as a strong and decided testimony against him. I shall also have occasion to recur to a gentleman of whom the Defendant has, perhaps, a better opinion than he has of Mr. Francis, namely, the late Mr. Wheler. I shall recur to their recorded opinions upon the corrupt view in which they saw these transactions. My Lords, I trust you will think that evidence of such a nature, given at the time, the Defendant not daring to answer anything that they had brought forward against him before the Court—I think you will agree with me that that sort of testimony is the strongest which, under the nature of a case like this, you can have.

My Lords, I beg to call your attention to the printed Minutes, page 1,354, to a minute of Mr. Francis and Mr. Wheler:—

"We have great reason to complain of the uncommon hurry and precipitation with which the proposed contract for supplying the army with draught and carriage bullocks for five years has been engrossed and brought before the Board, to be executed on Thursday the 26th instant."

To be executed! The Defendant was, of course, very desirous of getting this contract through.

"Considering the very extraordinary charge which the Company is to incur by this contract, the number of intricate clauses and provisions totally new of which it consists, it was the secretary's duty to have prepared a draft of it."

Mr. Francis goes on with hoping the Council will deliberately weigh it:— 23 May 1794.

"If nevertheless the majority of the Board should persist in their intention to execute the contract, we shall have done as much as depends upon us at present by stating our objections to it, and shewing the consequences that must attend it."

They then refer to the Company's orders in 1770; for in 1770 there was a previous order with respect to bullocks, as well as the order which came out in 1774, with respect to all other contracts. They state the order:—

"It is our express order, and we positively direct, that you do not fail every year to advertize and receive such proposals as may be offered for supplying the troops with provisions, and for furnishing draught and carriage bullocks. We solemnly protest against every attempt to load the Company with such an immoderate expense, and particularly against the intention to fix it irrevocably for any term of years."

Here is the opinion of two members of the Board. Mr. Francis then states a plan which, by the by, is not very far short of Sir Eyre Coote's:—

"We suggest these cursory remarks to the Board as fatal to the proposed contract on its own principles, and exclusive of the illegality of granting a contract on any conditions for the term in question. Many other objections we doubt not would occur to persons better versed in the subject than we are; but what has been said we trust will be sufficient to justify to the Company and to the public in general the part we have taken, or may hereafter take, in resisting so enormous and unprecedented a waste of the Company's property."

He then states a plan.

After such a charge as this, given by two members of the Board against the Defendant, one would have thought that at last he would have ventured to have answered it. Mr. Hastings, at the first moment impressed with the truth of it, impressed with a sense that every word that Mr. Wheler and Mr. Francis had offered conveyed a censure upon him and upon his conduct, enters a minute to this effect:—

"The Governor General informs the Board that he shall deliver a reply to the minute of Mr. Francis and Mr. Wheler above recorded, which he desires may have place in the consultation."

Your Lordships will be astonished to find that no such reply was ever given; no such reply can be found. The learned Counsel have not attempted to tell you that there was any such reply entered. We have examined the only

No reply recorded on the part of Mr. Hastings.

23 MAY 1794. person whom we could examine upon this occasion, Mr. Hudson, who has searched the records of the Company in vain, and he says no such reply is to be found. What is the natural inference?—that the Defendant admitted every word that Mr. Francis and Mr. Wheler had stated. It was easy for him, at that time, to have given the reasons why he had advanced the propositions of Sir Eyre Coote from 4,074 to 6,700. It was easy for him to have said—"This is no profusion and waste of the Company's money. This is necessary for the war. The exigencies of the service demand it. Sir Eyre Coote is not liberal enough: he wishes to restrain the expense of the Company, but I cannot think of indulging him in that." No; though the minute charges this to be an exorbitant waste of the Company's money, though it is stated in as strong terms as can be, except what is hereafter stated in another minute, Mr. Hastings says nothing to the Board—only, "I will enter a reply." He never does enter a reply; and, I say, he admits all the accusations of Mr. Francis and Mr. Wheler in the most direct terms.

His silence equivalent to an admission of guilt.

But, my Lords, I have not done with the evidence whom I called, namely, Mr. Francis and the late Mr. Wheler. They knew the Defendant and they knew what he was about. They tell him that this contract is given directly for corrupt purposes. They tell him that in Mr. Crofts there are a variety of interests concealed; that Mr. Crofts is only the ostensible man; that he must know himself that Mr. Crofts is only the ostensible man. My Lords, I beg to state to you the minute of Mr. Francis, and I beg also to state to you an additional one of Mr. Wheler; for, if ever a man was called upon to wipe away a suspicion that lay upon his character, if ever there was an individual in any situation, but particularly in so exalted a one as the Defendant's, he ought not to have permitted such a libel to have remained upon the records of the Company against him, without sending a justification to his employers, and without endeavouring to show that the contract granted to Mr. Crofts was so far from being injurious to the interests of the Company, that it was the very thing they ought to thank him for. Hear what Mr. Francis says:—

Further charges of corruption in respect of the contracts brought against Mr. Hastings by Mr. Francis and Mr. Wheler.

"In addition to the remarks contained in Mr. Wheler's minute and mine of the 31st of August, on the proposed bullock contract, I beg leave to lay the annexed papers before the Board, and to request the attention of the members to the calculations contained therein."

I shall not, of course, trouble you with these calculations. 23 MAY 1794.
You have them in the printed Minutes, page 1360. He then states that he has made the calculation. It shows the expense of different establishments—what number of bullocks would be wanted; and then he seems to wish that they should adopt his plan.

"In this view, the number of bullock drivers appears to be highly detrimental to the good of the service."

For your Lordships know, bullock drivers are always in the contract. And what I shall afterwards introduce—though not in the Charge, but which I think makes for the position I contend for, [is] that this contract was not only for draught and carriage bullocks, but was a victualling contract also:—

The victualling contract.

"Having not had it in my power to enter into a particular consideration of the new victualling contract, I take this opportunity of declaring that I entirely concur in Mr. Wheler's remarks upon it. I find it formed upon the same exorbitant principles with the bullock contract."

There were two contracts with Mr. Crofts and to be executed by the same persons. He says,—

"A variety of concealed interests are to be provided for under the name of Crofts."

My Lords, this was said in open Council, when the Defendant was sitting as Governor General at the Board. What ought to have been his conduct upon that occasion? He ought to have endeavoured to have purged himself from the accusation, and to have immediately denied the assertions of Mr. Francis.

"No one person," he says, "is equal to the contract. I must declare that the present contractors, whoever they are, are the most improper persons that could be chosen for the like trust in future. The contracts were never so ill executed as by the present contractors."

I will explain what Mr. Francis means upon that, because your Lordships have not yet got to the bottom of the contract. Mr. Hastings has told you that he dissolved the contract with Mr. Johnston because there were complaints of the army. Now, if there were complaints from the army of the bad state of the bullocks that were provided by Mr. Johnston's contract, one should naturally suppose that he would either have advertised for other persons to engage in the contract, or at least, if he had chosen to have given it against the order of the court of Directors, that he would have given

23 MAY 1794. it to some other person. No; he gave this contract, at a very advanced price, to the very persons themselves. Mr. Crofts was not the person to whom Mr. Hastings originally offered the contract. Mr. Alexander Johnston was the person who had the former contract. That very Mr. Johnston is the person to whom Mr. Hastings applied to take this very contract at an increased rate:—"You have a contract at a price which is too small for you. You are not well enough paid. Give me up that contract—only eighteen months are passed—and I will give you a much better." What does Mr. Johnston do? Mr. Johnston says, "No; I wish Mr. Crofts to have it, and I will be Mr. Crofts' security." Thus the contract is given under the name of Crofts to Mr. Johnston, the very person against whom there were complaints made of the badness of the bullocks; and, what will astonish your Lordships, it appears from the evidence of Colonel Duff that the very bullocks that Mr. Johnston supplied the army with are transferred to Mr. Crofts' contract. You have here, therefore, Mr. Hastings telling you fairly that there were complaints from the army against the bullocks, and you have him saying he broke the contract because of those complaints; but he directly gives the same contract to the same person at an advanced price, and you have it from the evidence of Colonel Duff, their own witness, that he takes the same bullocks. I shall have occasion to refer to Colonel Duff's evidence presently. I have so far explained to you what Mr. Francis meant by the concealed interests. Hear what Mr. Wheler says, immediately following, in page 1362 of the printed Minutes:—

Mr. Crofts the nominee of Mr. Johnston.

"In addition to Mr. Francis' account, I beg leave to present the accompanying calculation, in order to demonstrate that, even upon the extravagant supposition of the necessity of keeping up a constant establishment of 6,700 bullocks, an excess of expense will arise in five years from the exorbitant increase of the contract rates of no less than current rupees 234,419,185, being above 234,000*l.* sterling. And having established the fact, which, with what Mr. Francis has said, sufficiently exposes the complexion of this transaction and cuts off every plea of justification, I have at present only to add, that I join Mr. Francis in reprobating the contract as a measure big with the most ruinous consequences to the Company."

To all this Mr. Hastings submits, and his only justification is in what has no relation to the case before you. My Lords, he wishes to justify himself a little under the establishments which took place in the Carnatic. He wishes you to recur to the number of bullocks which Lord Cornwallis had in his

Faultiness of the alleged parallel between the

army. I am sure I shall have no occasion to fear meeting him upon that ground. In the first place, nothing can be drawn from the particular situation in which Lord Cornwallis' army was. Lord Cornwallis' army was in a mountainous country. It was in a country of an enemy, where they were obliged to carry everything, and therefore no opinion can be formed from the number of bullocks Lord Cornwallis wanted, to justify the measure which I have now the honour of addressing you about. 23 MAY 1794.

Cases of Lord Cornwallis and Mr. Hastings.

My Lords, this contract was for supplying the army in Bengal. Much of the service in Bengal was performed by water, upon the Ganges. The service with Lord Cornwallis could be performed only upon beasts of burden, namely, bullocks. Lord Cornwallis was in a mountainous country; and, if your Lordships will recur to everything the Counsel have given in evidence upon that subject, you will see exactly what the persons state to whom the Counsel refer. The Counsel again bring Lord Cornwallis forward with respect to the number of drivers. They tell you that the number of drivers which Mr. Francis wished to have was quite ridiculous; in short, the service could not be carried on with that number of drivers; and they call Lord Cornwallis to your recollection. Why, I beg also to call Lord Cornwallis to your recollection. You will find the reason why Lord Cornwallis says he has occasion for a greater number of drivers. It is in the printed Minutes, page 2,282; a letter from Lord Cornwallis, dated July 27th, 1791:—

Letter of Lord Cornwallis.

"[We have no reason to complain of the desertion of the dooley bearers, and I believe they will go on very well upon the present footing; but the bullock drivers, who are delayed much longer on a march, and who must afterwards fetch forage for their cattle, as well as look out for provisions for themselves, are no doubt in a different predicament, and on that account I will, as an encouragement to them to engage with you, agree to furnish them with two seers of grain per week, at a moderate price, from the time the army shall proceed again from Bangalore towards the enemy's capital]."

So the deficiency of drivers was not mentioned as any deficiency of the regular establishment, but as arising merely from the peculiar circumstances of the army which Lord Cornwallis commanded. The Counsel have just as fairly quoted what Colonel Pearce says upon that subject. They say, Colonel Pearce in his detachment had twice the number of bullocks that Mr. Hastings proposed. I beg to call to your Lordships' recollection what Colonel Pearce

The case of Col. Pearce.

23 May 1794. says upon the subject, for I never heard evidence so misapplied as his letter: it is in page 2,268. He says:—

"To this day I have not received a single line from the Presidency. I cannot account for it. I have written for maps and guides, and for an account of provisions, and the places where laid up, if anywhere, that when I arrive at the Kestna I may take my measures accordingly. Our expenses daily are 700 maunds. 200 bullocks are requisite; to carry food to these bullocks 21; therefore to carry one day's provisions 221 bullocks. Admitting, therefore, obstructions included, thirty days from the Kestna to Madras, we must set out with 6,630 bullocks loaded with provisions. In all the route they will not get a bundle of straw, and hardly a blade of grass; therefore they must live on grain only."

Now, upon what ground do the Counsel attempt to justify the measure of Mr. Hastings, under this letter of Colonel Pearce? The fact is that all the provisions necessary for the three brigades in Bengal are carried by water up the Ganges. This man's distress is not for draught and carriage bullocks merely to carry the artillery and burdens, but they are necessary to carry every necessary they want, and therefore he wants such an establishment of bullocks. I am astonished the Counsel should have been so imprudent as to venture, in evidence for the Defendant, to introduce a letter which, I am sure, if your Lordships look it over, you will see makes directly against them and for us.

My Lords, I have also to call to your recollection another of their witnesses, General Stibbert. Great part, indeed, of the evidence which I have offered to you, by way of reply, and which I have commented upon, is their own evidence. I said that in this contract with Mr. Johnston there is no distinction made between draught and carriage bullocks. I stated that that was unusual, and that it was considerably for the advantage of Mr. Crofts, inasmuch as it perhaps made his contract three times as good. Here is a letter of General Stibbert to the Board upon the contract, after the reduction of the establishment took place. You will find it in page 2,273. The moment that contract was got rid of, then the diminution took place. The number of bullocks was diminished to Sir Eyre Coote's establishment —4,074. That was done expressly by the orders of the court of Directors. General Stibbert says:—

Reduction of the establishment on the termination of the contract.

Letter of Gen. Stibbert.

"You have been pleased to direct through your secretary that the establishment of bullocks be reduced to 4,074, the number ordered to be retained for the service of Bengal and its dependencies by the court of Directors, which instructions I shall cause to be carried into execution

with as little delay as possible. But, previous thereto, I must request to be informed if it be your intention that this number shall be the establishment of draught and carriage bullocks, exclusive of the beasty bullocks attached to the several corps, which, till the commencement of the present contract, were entirely distinct from and not included in the establishment of bullocks for the army." 23 May 1794.

Exorbitance of the charge for beasty bullocks.

So that, in this contract with Mr. Crofts, which really was Mr. Johnston's, he has included in one price the same draught bullocks for which, we will suppose, two pounds were given, with those for which five pounds were given, and yet he has given five pounds for the whole. This is the contract which is attempted to be justified in the way which I have now explained to you. Beasty bullocks were the commonest bullocks that could be.

Refusal of Mr. Francis and Mr. Wheler to sign the contract.

There is another circumstance, which I think will set the Defendant's conduct in its true light; for all the members of the Council are bound to sign the contracts that are settled by the majority of the Board. Mr. Francis and Mr. Wheler say, this contract is so shameful they will not sign it; and in fact they never did or would sign it. Does the Defendant accuse them of having acted improperly—and he would have been very glad to have taken any advantage? Does the Defendant accuse them of having acted in disobedience to the orders of the Company? No! Do the court of Directors accuse them—and perhaps some of them were not inimical to the Defendant? No! The contract remained unsigned by Mr. Francis and Mr. Wheler; and the court of Directors take no notice of this act of Mr. Francis and Mr. Wheler in not signing it, though the omission to sign it was a disobedience to orders, in which they were justified upon that principle, namely, that, when the letter of the orders contradict the principle, the principle is stuck to and not the letter.

Duration of the contract.

My Lords, I do not know that anything further is wanting to complete, in my opinion, the guilt of the prisoner, in respect to the contract which is now before you. But, my Lords, I think I ought to call to your attention another circumstance, which will evince to you that the contract was given with no other motive than what I have had the honour of adverting to. The contract stated that if within such a term, namely, I think, at the expiration of four years, notice was given, the contract should cease at the end of five; otherwise it was to remain for six years upon the same terms.

The court of Directors, immediately upon the letters

23 MAY 1794. coming over stating the contract to have been made with Mr. Crofts, direct that immediate notice shall be given, and that the contract shall be vacated. What would you suppose the conduct of the prisoner to have been under these circumstances? To have written to the court of Directors; to have stated his reasons why he originally entered into the contract, but, as they disapprove of it, that he, of course, would give the notice. I say that ought to have been the conduct of Mr. Hastings. It would have been the conduct of any of your Lordships, or of any man in his situation who really meant to do what was right. The letter comes; Mr. Hastings never gives the notice; and the contract goes on for six years. Mr. Hastings gives a reason for not making the notice known to the contractor as he ought. He says, in the most gentle terms, the subject never came before the Board: it was a mere neglect: it never was brought before the Board: it was a neglect!

Disobedience of orders on the part of Mr. Hastings in continuing the contract for three years.

My Lords, I beg to ask you—I appeal to any man—I am sure I may appeal with confidence to any who hear me, whether this is an act which an honest man would have been guilty of. He ought, the very first moment, to have advertised the contractor of the orders of the court of Directors. I am sure, therefore, that I need not press it further upon you that it was not a neglect: it was an omission from intention. The reason of that omission I shall explain to you presently.

Dishonesty imputed to Mr. Hastings.

My Lords, I have said that the conduct of the Defendant was not that of an honest man. I am sure I do not wish, by using any terms of that sort, in any way to hurt the feelings of the Defendant; but to actions like these, standing where I do on the part of the Commons of England, I must express the disapprobation which those whom I represent have of those transactions, in the terms and in the words which alone suit it. I mean nothing disrespectful to the prisoner individually, but I mean to do that for which I am sent here;—to state, in the strongest language in which I think words are capable of permitting me to express it, the sense I have of the transaction for which the Commons have impeached him. I therefore come now to another head of charge, namely, the agency of Sir Charles Blount.

Agency of Sir Charles Blount.

Your Lordships, I should think, will recollect—if not you will permit me to call your attention to it—the particular situation under which this agency was given. Mr. Hastings neglects, as I have before told you, to advertise the con-

tractor in due time of the expiration of the contract; consequently it was to last for six years instead of five. Mr. Hastings, soon after the proper time at which he was to give notice expired, sends to Mr. Ferguson, who was the then contractor—for Mr. Crofts could not execute the office—and Mr. Ferguson was nominated to it. My Lords, Mr. Hastings, as I stated, did not give notice to the contractor as directed by the terms of the contract, but, soon after, he desires to know what Mr. Ferguson, who then had the contract, would take for avoiding the contract. My Lords, this was not done with any common view, for he had another friend to provide for. That friend was Sir Charles Blount. And I believe, after some consultations with Mr. Ferguson, you will find that Mr. Ferguson, for the relinquishment of this contract, received between 30,000*l.* and 40,000*l.* So that, from this accidental neglect, as he calls it, but I say wilful, and I think corrupt, inattention, he permits the contract to go on, contrary to the terms and tenor of the contract, which was originally to be void in five years, if notice had been properly given—he permits it to run on for six years. Within a very short space of time afterwards, he desires to know what Mr. Ferguson would take for this contract: and, to show how good a thing this contract was, he, for about a year and a half remaining of the contract, actually gives him between 30,000*l.* and 40,000*l.*

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Transfer of the contract to Mr. Ferguson.

How Mr. Hastings has defended this I really am at a loss to conceive, even when I look at his evidence. To be sure he has produced a very formidable witness indeed, which is himself; for, in a letter to the court of Directors, which I shall have occasion to notice perhaps again, he uses these words—by the bye this was six years afterwards,—

"I cannot omit to recommend in the most earnest manner the provision of draught bullocks for the service of Bengal by agency rather than by contract."

Inconsistency of Mr. Hastings' opinions.

So that, five years before he gives the agency to Sir Charles Blount, he says a contract given upon great terms is the only way to have the service done well. When he comes to give the agency he reverses that, and says,—"Oh! I have been mistaken about the contract. To be sure the contract was liberal: it was upon great terms: but I do assure you, gentlemen of the court of Directors, that it is not the right way to proceed. I have been wrong in contracts, and you ought to give it by agency." He gives the

23 MAY 1794. agency to Sir Charles Blount, and, as the reason that he afterwards assigns to the court of Directors, he says, after the paragraph which I read to you;—"Nothing can be more injurious to the service than the latter,"—meaning contracts —"nor more extravagant than the lowest rates at which it has hitherto been undertaken."

My Lords, I certainly must here take the liberty of differing, in one point only, most essentially from an honourable friend of mine who last addressed you. His opinion of Mr. Hastings and mine upon many subjects are similar. However, upon one, perhaps, we are much at variance. My Lords, as well as I recollect, my honourable friend the other day told you that, wherever Mr. Hastings [believed], he was generally mistaken; wherever he asserted, he was sure to be false. I differ from my honourable friend in that respect; because, I say, here I believe Mr. Hastings; I give him credit. And I differ from my honourable friend in that. I say, here is a truth asserted by Mr. Hastings himself. I believe Mr. Hastings. I will not say it is the only thing in which I believe him, but I here fairly and truly believe him; and therefore, in so much as relates to that, I may, perhaps, differ with my honourable and excellent friend. Mr. Hastings tells you, nothing can be more injurious than a contract; nothing can be more extravagant than the lowest rates at which it has hitherto been undertaken. So that, in one word, after he comes over to England, in a letter to the court of Directors, he is the best witness against himself. I wish himself always to be that witness against himself; I am sure your Lordships cannot have more competent testimony. He states that all the contracts were unreasonable; and yet we have shown you that the contracts he made were more scandalous and more shameful than any that before existed in the records of the Company. I, therefore, do think in this particular that Mr. Hastings speaks perfectly truly in what he says, and I use him as my witness.

He denounces the system of contracts.

But, my Lords, I have another witness, who is somewhat linked with Mr. Hastings. I take the liberty of bringing him forward; and he, my Lords, is their own witness. I am not arguing upon any evidence that we have brought; I am now fairly in reply to the evidence the Defendant has brought forward. I am answering his own case by his own witnesses. He brings forward Sir Charles Blount.

Evidence of Sir Charles Blount.

Sir Charles Blount, who is appointed the agent, makes an apology for his terms, and he seems to fear that the court of

Directors will think his terms as unreasonable as the former. 23 May 1794.
Your Lordships will find it in a letter of Sir Charles Blount's to the court of Directors. Thinking that his agency was given improperly, he tells you fairly that the Company suppose the rates to be as extravagant as the rates given in the last contract; but, he says, they are no such thing. And yet this is the witness he has brought forward not only to vindicate the contract to Mr. Crofts, but with respect to the agency. Mr. Stables, when an attempt of this sort was made, wrote the following minute, in answer to the Governor General. Your Lordships will find that it is in page 1383 of the printed Minutes:—

"The Governor General delivers the plan mentioned in the minute for conducting by agency the business of the late army contract and for finding the bullocks."

This is Mr. Stables' answer:—

Mr. Stables objects to the system of agency.

"I wish to convince the court of Directors that there is a disposition in this Government to show obedience to their orders, and I am determined that their orders shall be the only rule of my conduct. With respect to the proposition now sent for supplying the army by agency, I object to it, and will agree only to such measures as are ordered by the court of Directors,—I mean by advertisement, which is the only mode of ascertaining the actual expense, and the most beneficial to the Company; and perhaps no other will ever satisfy our superiors that our measures are not jobs, or the effect of private and secret influence."

Now, my Lords, can anything be more satisfactory to you than this minute, in which Mr. Stables expresses at the time his dissatisfaction of the conduct of the Defendant; in which he tells you fairly that there is a job concealed in it; in which he tells the Defendant, to his face, that it is a direct disobedience to the orders of the court of Directors? I am sure your Lordships must see that, under these circumstances, there is a positive charge made good against the Defendant, in the three points to which I have called your attention.

I am not desirous of going further in respect to the agency of Sir Charles Blount. There are three important ones remaining behind, to which it is my duty to call your Lordships' attention. I shall, therefore, proceed to trouble you with that point of the Charge relating to Sir Eyre Coote, which is grave, weighty and important; and it is a charge to which the Defendant has not ventured even to make a reply—which the Defendant has not produced a witness to counteract — against which he has not offered even such evidence as I have now commented upon before your Lordships.

Charge against Mr. Hastings of giving bribes to Sir Eyre Coote.

23 May 1794. My Lords, although Mr. Hastings has not attempted to rebut this charge, I shall not think that I discharge my duty faithfully to the Commons if I do not again re-establish this charge in all its colours—if I do not point out to you the scandalous breach of orders and the direct expenditure of the public money, for a purpose which I am very sorry happened in the instance of so respectable an officer—I mean respectable in his military capacity—as Sir Eyre Coote. I am the more sorry to go upon this Article because that gentleman is no more; and I hold it to be an essential duty with respect to an officer who is absent upon service, to be as tender and delicate as the nature of the circumstances will admit. And, if I could, I would in an especial manner draw a veil over this transaction of Sir Eyre Coote, because that gallant officer is no more, and because I am obliged to draw him out to you in colours that I am almost ashamed to [depict]—I am obliged to draw him out to you, even from the words of the learned Counsel for the Defendant, in colours that will not add much to his character. I will state what they have said of him hereafter, and I will show you that I shall be lighter upon the memory of that gallant officer than they were.

But, my Lords, the Counsel had a very difficult game to play: they had to shield the Defendant from one of the most important charges that ever was brought against an individual, in any age or country. They had to shield him from bribing Sir Eyre Coote, by giving him allowances which the Company had sent repeated directions not to permit. He gave him allowances against the Act of Parliament and against the repeated orders of the Directors. And there is one merit which I will allow to Mr. Hastings, that, when the court of Directors reprobated in the strongest terms the transaction, namely, that he had made those allowances to Sir Eyre Coote, he was so good to his honourable masters that he took off the allowances from the expense of the Company, and he was so kind to the Wazir as to put the amount of those expenses upon him. He continued the amount of these expenses for three years. And Mr. Hastings, as I shall have to show you presently, wishes to get rid of this, by saying that he thought the Wazir did it upon an idea of the service rendered by Sir Eyre Coote. He even tells you that the Wazir would have been glad to have given double the sum. I shall show to you that, by the express orders of Mr. Hastings, Mr. Crofts writes to the Wazir for the payment of what

Mr. Hastings fixes the expense of Sir Eyre Coote's allowances upon the Wazir.

was due to Sir Eyre Coote, two years and a half after the establishment first took place. The establishment, your Lordships will recollect, which first took place was, that, when Sir Eyre Coote was in one part of Bengal in the Company's territories, he was to have this allowance from the Company; that if he crossed the river Kurumnassa, the Wazir was then to pay it. And, though he had recrossed the river Kurumnassa and come back to the Company's territories, I will prove that these allowances remained from the Nawab Wazir, and that the Defendant knew it.

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Provision for field allowances to the Commander-in-Chief.

My Lords, I will state to you in two words what the Charge is which the Defendant admits, and which I shall re-establish. This is the Charge which he admits:—"The said Warren Hastings did, in the year 1779, in further prosecution of this corrupt system, in direct contradiction to his duty and with a view to increase his own influence, create an establishment for Sir Eyre Coote, the Commander-in-Chief, at an expense of no less a sum than 184,162 rupees *per annum*—that is, 18,000*l.* sterling; which said establishment was created in consequence of a claim set up by Sir Eyre Coote to certain allowances granted by the said Warren Hastings to Giles Stibbert, provincial Commander-in-Chief, before the arrival of Sir Eyre Coote in India, which allowances, to the amount of about 8,000*l.* *per annum*, the said Sir Eyre Coote contended did devolve upon him, and although there was no pretence to continue the same to the said Stibbert." It goes on to state, that he did not discontinue the allowances to General Stibbert, but gave those allowances to Sir Eyre Coote in addition to them. The Charge goes on to state—"That in the same year he did, through the means of his Council, direct that the extravagant allowances aforesaid should be added to the general debit of the Nabob Vizier's account by the Resident at Lucknow, and that the same should continue so long as the General should remain beyond the river Carumnassa." Then the Charge goes on to state,—"That the court of Directors disapproved of these allowances, and ordered them to be discontinued. They were discontinued as far as related to the Company, but were continued as far as related to the establishment of the Nabob Vizier."

Specification of the Charge.

Sir Eyre Coote arrived in Calcutta in the year 1779; and your Lordships will find that the directions of the Company, in pursuance of the Act of Parliament, were these—they are in the printed Minutes, page 1390;—

Pay and allowances of the Commander-in-chief.

"We direct that the Commander-in-Chief of the Company in India be

23 MAY 1794. permitted when in Bengal to enjoy a house in Calcutta"—and so on; "that there shall be paid to him"—the words are very material here—"that there shall be paid to him the sum of 6,000*l.* sterling *per annum* in full, for his service of Commander-in-Chief, in lieu of travelling charges and all other advantages and emoluments whatever, except his salary of 10,000*l.* a year, established by law and ordered to be paid to him."

There, my Lords, you have the orders of the court of Directors, stating that, in lieu of every charge—travelling expenses, batta, and everything else—he should receive 6,000*l.* a year, in addition to 10,000*l.* a year, which he had as a member of the Supreme Council. I should think that this allowance was a pretty fair, a pretty just, and a pretty liberal one! General Clavering, who was a man of as much character in his profession as any man alive, had the same allowances.

But, further to enhance the guilt of the Defendant, when Sir Eyre Coote came to India, he brought with him a letter from the court of Directors, directing that the same allowances which were paid to General Clavering—and no more—should be paid to Sir Eyre Coote. Your Lordships will find it in the printed Minutes, the same page:—

Sir Eyre Coote to receive the same allowances as Sir John Clavering.

"It is our pleasure and we hereby direct that Lieutenant-General Sir Eyre Coote do receive the same pay, as Commander-in-Chief of our forces in India, as was received by Lieutenant-General Sir John Clavering."

My Lords, one would have supposed that this was a pretty peremptory direction and could not be mistaken. And Mr. Hastings did certainly not mistake it; but he acted in direct disobedience to it. Sir Eyre Coote seems to think that the extraordinary allowances which General Stibbert had should be transferred to him, because General Stibbert only had them upon the death of General Clavering, and that, as he was now come to Bengal as Commander-in-Chief in lieu of General Clavering, these allowances should not be continued to General Stibbert. Whether it was proper to continue them to General Stibbert I am not now considering, but I am contending this—that it was not proper to allow them to Sir Eyre Coote. But your Lordships will see that he does allow them to Sir Eyre Coote, and he makes a minute to that effect, which I before stated.

Extra allowances granted by Mr. Hastings to Sir Eyre Coote.

He gives certain allowances, as you will find in the Evidence, to Sir Eyre Coote, amounting to about 18,000*l.* a year, and he directs the Wazir to pay his proportion when the General shall be across the river Kurumnasa. I shall not here much enlarge, because it is too clear to admit a doubt that the treaty with the Nawab Wazir was decisive; that nothing of

this sort could be imposed upon him; and that, when it was debated in Council, the other members of the Board were not willing to do what Mr. Hastings required of them, but expressly said that the Wazir ought not to be so charged.

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Illegality of the charge upon the Wazir.

Your Lordships will find in page 1395 the minute of Mr. Francis. He tells you there that the specific amount of the Wazir's subsidy is fixed by treaty; and he goes on to tell you the Wazir has not invited Sir Eyre Coote into the country:—

Objections of Mr. Francis and Mr. Wheler to the extra allowances.

"I know of no service which his presence there could produce to the Vizier, which alone could furnish a pretext to demand any additional subsidy to him. I am therefore," says he, "against the measure."

The General says,—"This is strange language;"—and goes on a little in that way, and then Mr. Francis says:—

"When the weight of the argument is felt there is some relief in cavilling about terms as to language and manners. I allow that the Governor General is perfect master of both—whenever he is master of himself. I leave the style of the two preceding minutes to be compared and judged of by others. In reply to the last, I shall only say that I think my objection is not answered. The subsidy of the brigade in the field is fixed by treaty: that, I presume, we are agreed cannot be increased at our discretion:"

and he reprobates the whole of it. Mr. Wheler gives his voice against him. But Mr. Hastings at that time was everything in the Council, and the allowances were carried. At the time that Sir Eyre Coote proposed in Council that General Stibbert's allowance should be taken off and given to him, there was a debate, and Mr. Francis constantly objected to it. He said then:—

"I cannot consent to any variation from the allowances fixed for and enjoyed by General Clavering, without the Company's orders. The very last which they have given us, and which Sir Eyre Coote brought out with him, direct that Lieutenant-General Sir Eyre Coote do receive the same pay, as Commander-in-Chief of their forces in India, as was received by Lieutenant-General Sir John Clavering; and he does everything he can to get rid of it."

But when they came to propose the establishment of Sir Eyre Coote independent of General Stibbert, this is Mr. Francis' minute: it is in page 1393:—

"On the principles on which the opinion I have already given was founded, I have much more reason to object to the establishment now proposed than to the Commander-in-Chief's first proposition. All the allowances granted to General Stibbert as Commander-in-Chief or otherwise, and which I have constantly objected to as excessive, are to be continued, and at the same time a new establishment created amounting to the charge—"

which he then states. However, notwithstanding all that

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Disapprobation of the court of Directors.

Mr. Francis says, Sir Eyre Coote has this establishment. The court of Directors express to the Defendant in the strongest terms their disapprobation of it; yet he permits Sir Eyre Coote to draw it from the Nawab Wazir.

Alleged offer of the Wazir to double the allowance to Sir Eyre Coote.

My Lords, I would just state to you Mr. Hastings' words with respect to the Nawab Wazir, and they are really very material. He says:—"The Nawab had so high a sense of Sir Eyre Coote's merits and services, that, instead of objecting to the proposed allowance, he expressed a wish it was double that sum. [He, doubtless, never lost sight, in the General's absence, of his being engaged as much in the defence of his provinces as of those of the Company,] and it was upon that principle that he was so forward to continue Sir Eyre Coote's allowances."* Now, my Lords, I do not think it very likely that the Nawab could ever wish to pay such a sum of money to Sir Eyre Coote. But recollect the time at [which he is stated to have] wished to pay it. It was within three or four months before Mr. Hastings went to Lucknow, to get the Nawab to commit no less an act than robbing his mother.

Expostulating letter of the Wazir.

My Lords, to show you that the Wazir, within two or three months after Mr. Hastings sent up Sir Eyre Coote to him to receive these establishments—to show you that this unfortunate Wazir could have no wish to allow Sir Eyre Coote anything out of his patrimony, or out of all that he had left remaining to him from the rapacity of the Company, I beg you to revert to a letter from the Nawab Wazir to Mr. Hastings, which is in page 1396 of the printed Minutes:—it is dated the 24th of February, 1780, which is about three or four months after Mr. Hastings writes word to Mr. Purling that he is to tell the Nawab Wazir of the allowances to be paid to Sir Eyre Coote, and that he writes to him himself upon the subject:—that was the 1st November, 1779:—and I beg your Lordships to attend to the Nawab's letter of the 24th of February. I can scarcely read it to you without shocking the feelings of every one who hears me. He states to Mr. Hastings in the most lamentable terms his melancholy situation. He tells him that he has scarce anything left to subsist upon; that he had always looked upon the Defendant at your bar as his friend, and upon the English Company as his protectors, but that, really, all these expenses coming upon him, though he had discharged all his domestics and servants, though he had done everything to reduce his

* Address of Mr Hastings to the Court of Peers, 2d June, 1791; *supra*, vol. ii. p. 506.

establishments, he became ashamed, for he had scarce anything left. At last he says;— 23 MAY 1794.

"You have cut my flesh, and now your knife has penetrated to the very marrow of my bones!"

This is the man upon whom Mr. Hastings, without authority from the court of Directors—nay, in direct disobedience to their orders—wishes to fix Sir Eyre Coote, and does fix him for three years—this very man, whom your Lordships have seen in evidence before you to have been in the greatest distress, and concerning whom you have heard too much upon the business relating to the Begum of Oude! Can I state it in stronger terms to your Lordships than to beg you to read the letter, and to apply your own feelings upon it?

Avowed corruption of the transaction.

My Lords, the defence of the learned Counsel who opened the general defence for the prisoner is very singular; but I think it will let you into the nature of the transaction better than anything that I can state to you. "If Mr. Hastings had not done as he did in soothing that great officer, at the time when he might have been very much affected and very indignant at the sort of treatment he received—at that moment, if he had not done as he did, he would have been very wanting to the interest of his employers." That is, if he had not bribed Sir Eyre Coote, he would have been wanting in his duty to the Company. He goes on and says:—"I am unwilling to tread this ground with reference to Sir Eyre Coote much further. If Mr. Hastings, at this moment, when the safety of your empire hung upon the word of that officer, sacrificed to the only passion of that great man,"—the only passion of that great officer—namely, to receive 18,000*l.* a year in contradiction to the express orders of his masters!—"if he sacrificed to the only passion of that great man, which threw a shade over his other great and eminent qualities, I should think his conduct not only excusable but praiseworthy by his country."*

Good God! my Lords, in what age do we live? Who have you before this Court? A man whom to defend his Counsel are obliged to resort to these soft words for covering the strongest, and, in my opinion, the basest, acts of bribery and corruption! My Lords, I shall leave that charge with you and shall proceed to two others; and I trust, in these two others, I shall not have any occasion to trouble you at full length.

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* See the speech of Mr. Law; vol. ii. p. 643.

CONCLUSION OF THE SPEECH OF MICHAEL ANGELO TAYLOR, ESQ., MANAGER FOR THE HOUSE OF COMMONS, IN REPLY UPON THE FOURTH ARTICLE OF THE CHARGE, RELATING TO CONTRACTS; 27 MAY, 1794.

27 MAY 1794.

MY LORDS,—In pursuance of your Lordships' wishes on Friday last, when you were under the necessity of adjourning, on account of the pressure of public business, the immediate consideration of the question before you, I appear, on the part of the Commons, to proceed in the reply on the fourth Article of the Charge against Warren Hastings, Esq.

My Lords, your Lordships will recollect that, when I concluded all that you permitted me to offer to you on the preceding day, I had finished the Charge respecting the allowances made by the Defendant to Sir Eyre Coote, contrary to the express orders of the court of Directors, contrary to the injunctions of the Act of Parliament, and contrary to the duty that he owed his masters who had sent him to India.

My Lords, there were two or three pieces of evidence which were connected with the Charge respecting Sir Eyre Coote, as well as with the bullock contract granted to Mr. Crofts, and which, being applicable to both, I intended to notice before I went to the agency given to Mr. Auriol.

Mr. Crofts' letter to Mr. Bristow, demanding payment of the allowances alleged to be due from the Wazir to Sir Eyre Coote.

My Lords, in order fully to explain both the nature of the contract to Mr. Crofts and the allowance to Sir Eyre Coote, I take the liberty of begging your attention to the printed Minutes, page 1401, where your Lordships will find the letter of Mr. Crofts to Mr. Bristow, who was then Resident at the court of the Nawab Wazir. My Lords, I am desirous particularly of calling your attention to this letter, because the Defendant at the bar has, at various times, insinuated as if the allowances given to Sir Eyre Coote by the Nawab Wazir were not continued at his instance, but that the Nawab gave them on account of an idea that he had of the services of Sir Eyre Coote. My Lords, in this letter you will find that, two years and a half after the letter of Mr. Hastings to the Wazir respecting those allowances,

after the orders sent by the court of Directors to India that those allowances should be discontinued on the part of the Company — one would naturally have inferred that the Defendant should have considered that order as also applicable to the allowances given by the Nawab Wazir, and that it was no justification upon the idea that these allowances were only to be given when Sir Eyre Coote crossed the river Kurumnasa—but this letter will explain to you that Mr. Hastings did continue these allowances; that they were continued with his privity and knowledge; because Mr. Crofts, by the desire of Mr. Hastings, writes to demand of the Nawab Wazir the remainder of the allowances which he said were due to Sir Eyre Coote. 27 MAY 1794.

My Lords, the letter is signed Charles Crofts, written from Calcutta, the 25th of January, 1783. The date of this letter is particular, because you recollect that Sir Eyre Coote came to India in 1779. I shall have occasion to remark upon the difference between the defence that the Defendant thought proper to make at the bar of the House of Commons, and that which he has made at your bar, in a speech in the year 1791.

"Dear Bristow, Sir Eyre Coote has some field allowances to receive from the vizier."

These field allowances were of 18,000*l.* a year, to be paid in addition to 16,000*l.* a year when he crossed the river Kurumnasa.

"They amount to sicca rupees 15,554 per month. He has been paid up to the 20th of August, 1782."

So that your Lordships see, from 1779 to 1782 he had been paid.

"The Governor General Warren Hastings has directed me"—for he was then Governor General—"to write to you, to request you to receive what is due from the Vizier and send me a bill for the amount, the receipt of which I will acknowledge in the capacity of Sir Eyre Coote's attorney. And the Governor desires you will continue to receive Sir Eyre Coote's field allowances at the same rate, and to remit the money to me as it comes in."

The letter written by order of Mr. Hastings.

Inconsistent statements of Mr. Hastings.

We have here the positive and specific declaration of Mr. Crofts that he wrote the letter by the order of Mr. Hastings. I shall show you that, in his Defence which he made at this bar, in the year 1791, he admits that Sir Eyre Coote did receive the field allowances. I shall show you also that, in his Defence before the House of Commons his language was very different indeed. He said he had

27 MAY 1794. some faint recollection, some glimmering of idea, that this was paid to Sir Eyre Coote, and that he rather thought he had given orders to Mr. Crofts to write the letter. My Lords, in a transaction of this nature, is it for any man in the situation of Governor General of India to say, in so important a transaction as that of field allowances of 18,000*l.* a year to Sir Eyre Coote, added to 16,000*l.*, that he had some faint recollection, some glimmering of idea, of having directed the Wazir to pay it? My Lords, the Defendant knew it! It was purposely done, to contravene the orders of the court of Directors, who had ordered him not to pay those allowances out of the Company's funds, immediately to send to the Wazir to continue those allowances, namely, of 18,000*l.* a year.

He says to the House of Commons:—

"The order of the court of Directors arrived, disapproving of the allowances which we had granted to Sir Eyre Coote, and positively ordering them to be struck off, and they were discontinued."

Your Lordships will find this in the printed Minutes, page 1400. It is an extract from the Defence of Mr. Hastings delivered at the bar of the House of Commons:—

"By what authority Sir Eyre Coote continued to receive this allowance from the Nabob Vizier I know not, but I have a faint recollection of Mr. Crofts having mentioned the circumstance to me a short time before Sir Eyre Coote was returning to Madras, in the month of January 1783. I have no doubt of his having received my authority so to do."

My Lords, you have then here a recognition, but a faint one, on the part of the Defendant that these allowances were to be paid to the Nawab Wazir. You have it in proof that Sir Eyre Coote received them for three years; but Mr. Hastings, finding that the letter of Mr. Crofts was rather too strong—finding that it would wipe away all idea that he had faintly recollected the circumstance—when he appears at your bar boldly avows the transaction. He says, "I gave it to Sir Eyre Coote for reasons"—which his learned Counsel in the opening have thought proper to offer you—to soothe that gallant officer.

Alleged avarice of Sir Eyre Coote.

My Lords, they told you, as I had occasion to state to you when I last addressed you, they told you that it was the only passion of that great man; namely, the passion to receive bribes from the Governor General. I should be glad to know how that passion can be vindicated; but especially I am astonished that the learned Counsel, recollecting

that that gallant man is dead, should wish to heap everything upon him, with a view to rescue the Defendant from the punishment that I trust awaits him! 27 May 1794.

My Lords, in his Defence before your Lordships, he uses some particular expressions which I shall beg you to take notice of. His words are these :— Mr. Hastings' explanation inconsistent with the date of the offence.

"I so well knew the value of Sir Eyre Coote's presence on the coast, that, at the time when the army was defeated, there is hardly anything that he could have asked me that I should not have given him."

Why, he thought then of the value of Sir Eyre Coote's services in 1779 just as much as he thought of them afterwards. But you will find that, in order to call off your attention from the real state of the transactions, he has jumbled all the circumstances together, and he makes a defence for the end of the year 1783 which he really ought to have made for the year 1779.

My Lords, I shall beg to call your attention to the circumstance of Sir Eyre Coote's having been in India in the year 1779. But he wishes to carry off the transaction by telling you that he did not like to disturb Sir Eyre Coote. Truly he had one foot out of the grave, he tells you, and one foot in; wishing to draw off your attention to the close of the life of Sir Eyre Coote, when the Charge is, that, in the year 1779, three years before Sir Eyre Coote was upon the point of dying, he gave him these allowances, not only out of the pocket of the Company, but out of the pocket of the Nawab Wazir. I beg your Lordships to attend to that; because the Defendant has, as I told you before, jumbled the evidence together, and wishes to draw off your attention from the real circumstances that attend the transaction. He said truly that it was not a time, when Sir Eyre Coote had one foot in the grave, to quarrel about allowances. My Lords, is that the fact? In the year 1779, when Sir Eyre Coote was well, is the charge against him for giving these allowances. It has nothing to do with the year 1783. As long as he continued these allowances he was so much the more guilty, but the guilt attaches upon him at the moment he gave the allowances, because those allowances, he knew, were in direct contradiction to the orders of the court of Directors, which orders were sanctioned by an Act of Parliament. But there is another part of the transaction to which I take the liberty of drawing your Lordships' attention. You see by this letter that Mr. Crofts was attorney to Sir Eyre Coote: he is recognised as such both by the Resident at the Mr. Crofts the recognised attorney of Sir Eyre Coote.

27 MAY 1794. Wazir's court, by the prisoner at the bar and by Sir Eyre Coote.

Reasons for believing Sir Eyre Coote to have had an interest in the bullock contract.

My Lords, I now go back to the bullock contract. Hear what Mr. Francis says in his minute:—that in that contract there were a variety of interests concealed. Mr. Crofts had the contract—Mr. Crofts who was the agent to Sir Eyre Coote; and the Defendant has told you that he would have denied nothing to Sir Eyre Coote if he had asked him; and then what is the inference? You see the attorney of Sir Eyre Coote receiving the money which he had extorted shamefully from the Nawab Wazir: you see the same attorney is the person who holds the bullock contract. My Lords, my firm belief is, that the prisoner at the bar knows that to be the fact, that Sir Eyre Coote had part of this contract given to Mr. Crofts in the year 1779. My Lords, I say the inference is just. The Defendant tells you that he would have given him anything; and, as I said before, you see the same man who was attorney and receiving the money from the Nawab employed in this scandalous and shameful contract.

My Lords, I trust that you will have the goodness to read, with the attention that I know you will, all these minutes and the letters which I have pointed out to you, because they show, what is material to this case, the specific guilt of the Defendant at the time that he granted these contracts and gave these allowances. So much for those allowances to Sir Eyre Coote.

I shall now take the liberty of commenting upon the agency given to Mr Auriol, who was the confidential friend of Mr. Hastings, and who was also the secretary to the Supreme Council. The circumstances of this agency are very short: and, before I endeavour to meet the evidence which has been given on the part of the Defendant, I will state in two or three words the substance of the Charge against him.

Mr. Auriol's agency.

The Charge is, that, in the appointment of Mr. Auriol to supply the Presidencies of Madras and Bombay, Bencoolen, St. Helena, and other places, with rice, he allowed him fifteen *per cent.*, not upon the purchase of the different provisions, but upon all expenses that should attend the transporting the rice or other provisions to the different settlements;—namely, upon the freightage, demurrage, and upon every incidental expense. I believe, my Lords, you will have reason to say that it is a charge of commission unknown in any time. Perhaps you will also recollect that the Defendant, sensible

that this charge was enormous, consented, though it was not his act, to the reduction of this commission to five *per cent.* 27 MAY 1794.

I shall have occasion to see how far the evidence given by us has been rebutted, either in the speech of the Defendant or by the animadversions of the learned Counsel who opened the general features of the Defendant's case, as well as by the evidence which they have thought proper to adduce. The evidence indeed which they have adduced lies in a very narrow compass.

My Lords, the Counsel for the Defendant have resisted this Charge upon these points:—They first show you a number of documents to prove what was not denied in the Charge, namely, that a famine was prevailing at Madras. We admitted that, in the Fort of Madras, there was some fear of a want of provisions in case of an attack; but I shall show your Lordships that they did not apply to any of the other settlements; that it had no reference to the island of St. Helena; and that the Defendant merely gave Mr. Auriol this agency for the express purpose of putting money in his pocket. It could be for no other purpose. I am sure that, when you read the Defendant's own words, when you read the letter of Mr. Auriol, and when you view all the circumstances, you will be of opinion that this is one of the most flagrant jobs that ever was brought to light. Mr. Hastings wished, in his speech before you, to account for the agency given to Mr. Auriol, and, at the same time, he begged to call your Lordships' attention to the alarming situation of the Carnatic. He told you that, at that time, Hyder Ali was laying siege to Arcot with an amazing force; that his numerous followers were desolating the country, even to the walls of Madras. I am ready to admit that that country was in a situation that demanded assistance. The Managers for the Commons have admitted it. But, my Lords, I hope and trust that will not form any ground of exculpation for the Defendant. I think it is rather an aggravation of the offence; for, if such was the situation of the Carnatic, it behoved the Defendant to look carefully to the expenditure of the public money. It was certainly his bounden duty, in every way in which it could be done with economy and prudence, to assist the settlement of Madras, but he was not to make a job of it for those who were near him:—he was not to take advantage of this calamity to invest Mr. Auriol with an agency to supply other Presidencies, who had no such immediate want of those articles.

Defence of Mr. Hastings.

Famine at Madras.

No urgent distress in the other settlements.

27 May 1794.

Letter of Mr. Hornby from Bombay.

To prove other Presidencies were not in want of those articles, I beg to call your Lordships' attention to the letter of Mr. Hornby from Bombay, in the printed Minutes, page 1,406. The letter is calculated to prove two points: it shows that they were not in the distress that the Defendant states;—I am now speaking of Bombay and not of Madras, which I shall have occasion to notice hereafter:—that in Bombay they were not in such distress; and the letter will furnish you with still further proof of the exorbitance of this commission. It must have been written soon after the appointment of Mr. Auriol to the agency, because it is in answer to the receipt of these provisions. He says:—

Exorbitance of the charges under Mr. Auriol's agency.

"The charges of this rice are so excessively high and unusual to us, particularly the articles of freight and commission, that they could not but attract our observation, and they engaged our attention the more strongly as we understand a large quantity is provided for the Presidency upon the same terms. The rice, with addition of charges, stands the Company in upwards of nine rupees a bag at Calcutta; [and we have judged it incumbent on us to take notice so far of this expensive supply as this Presidency will of course stand charged with a heavy debt on that account], and our wants were not so pressing as to require so expensive a relief."

This is in the consultation of [the 7th of] September, 1781. So much with respect to Bombay.

Ground of Mr. Auriol's proposals.

But, my Lords, the best proof of the whole of this matter is Mr. Auriol's own proposals. They were adduced by the Managers, and are in page 1403 of the printed Minutes. They were dated the 7th of December, and entered in the consultation on the 14th of that month. These proposals do not say a syllable about Madras or the other Presidencies, but go only to the danger of suffering so numerous a garrison as that of Madras to be in want.

Another document, which I think very material and strong to the point, is dated the 24th of March 1783, entered in the consultation [of the 1st of] April 1783,—in the printed Minutes, page 2,291. This contains nothing with respect to the wants of Bombay, but Mr. Auriol's own assertion on the expedience of performing such service by contract; and it does not in the least state the dangers at Bombay in 1780, which were the real grounds of his agency. There is no tittle of evidence to show you that, in 1780, there was any distress. These are after-thoughts, brought forward by the Defendant only now for the first time: they never were recurred to at the time. There is nothing of the sort entered in the consultation when Mr. Auriol was appointed.

There was no distress of Madras entered upon the consultation; there was no distress of the other Presidencies entered upon the consultation; but all Mr. Auriol desires in his letter is, that he be appointed the agent, and that the commission of fifteen *per cent.* upon everything should apply. 27 May 1794.

The learned Counsel proceed to evidence also relative to Bencoolen and St. Helena. For this purpose they produce the same witness—another document of Mr. Auriol's, entered in the consultation of the 22d of October, 1781, in page 2,291 of the printed Minutes. I think you will observe in that letter, when you look at it, that, with respect to Bencoolen—and this was a year after by the by—with respect to Bencoolen, he only says he has reason to think, but cannot ascertain, that the stores which were purchased for that Presidency by their own agents will be found to be more expensive or more uncertain than on the mode now adopted. So that, a year afterwards, when this agency comes to be the talk of all Bengal, then he offers you this letter, with a view to palliate that agency, which was given to him at the rate which I have just stated.

Evidence of Mr. Auriol as to the supply of provisions to Bencoolen and St. Helena.

As to St. Helena, Mr. Auriol says, in the same document, that formerly complaints were frequently made of the badness of the stores furnished by the bukhshi. This is only his own assertion. I am ready to give Mr. Auriol very fair credit for his assertions, but in a case of this sort we are not to take the assertions of any man, when he is charged with an offence; we must look to what were the motives for giving this commission at the time. Now I will say that it is not a very natural thing, to desire the person to whom you are to give a commission to let you know why you should give the commission. If he offers terms you are to hear him as to those terms, but not to go to him with a view to furnish you with evidence whether the stores he wishes to provide are wanting by the Presidency to which he wishes to send them. The defence is made up of similar materials. However tiresome it is, it is necessary to go through them before I sum up the whole.

Another evidence produced by the Counsel is, to show that the commission of fifteen *per cent.* was the usual rate of commission. You will find that evidence in the printed Minutes, page 2292. This was attempted to be given in answer: it is merely an attempt, I am sure, as you will see it to be. We had alleged and proved by the evidence of

Cases quoted in support of the commission allowed to Mr. Auriol.

27 MAY 1794.

Mr. Livius' commission.

Mr. Brodie—whom I shall afterwards have occasion to introduce to your notice—that five *per cent.* was the usual commission, and no other. They produce an instance, in 1775, of an agency with a commission of fifteen *per cent.* given to the military storekeeper, Mr. Livius, by the recommendation of the court of Directors, and which, they say, was enforced by a gentleman to whom they think proper often to refer and of whom I shall have occasion to-day to take notice;—I mean, Mr. Francis. I shall only observe on this head that the storekeeper was under many checks;—Mr. Auriol under none but his own honour and his own character, which I believe really to be very good. He had not, as Mr. Auriol had, the actual charge, nor had he the expenditure of the stores. There were officers, you will find, appointed. There were a number of other checks appointed. And you will further observe that this fifteen *per cent.* was very different from Mr. Auriol's, for this fifteen *per cent.* was upon the original purchase of stores; Mr. Auriol's upon not only the purchase of stores, but upon freightage, demurrage, and every incidental expense. So that, in fact, you may call it thirty *per cent.*

Commission on the provision of gun carriages.

They then bring another evidence, as good as this, of the agency of fifteen *per cent.* being paid for the provision of gun carriages. Now, I think, if your Lordships will have the goodness to look to the printed Minutes, page 2821, there is a letter which we have introduced by way of reply to this evidence. You will see a very material difference; because the person who is to inspect gun carriages does not appear to have had fifteen *per cent.* upon the materials of the gun carriages, for there were separate contracts made for providing the wood and for providing the iron; his fifteen *per cent.* was upon the expense that took place in making up the materials. And, if your Lordships will have the goodness to turn to the letter which I have just mentioned, signed by John Murray, you will see that I am, I think, not very much out in my idea. It is, that the iron work and the timber in the rough be deposited in the stores. There are separate contracts for all that; that when carriages are wanted they shall be furnished under the directions of the commissary of stores. He is not to be allowed a commission upon the different articles, but upon the cost of making up the carriage from the articles deposited in the storehouse, and from which storehouse all materials were taken. I do not mean to dwell upon this, but I beg to call your attention

to the situation into which the Counsel found themselves driven, to have resort to such paltry evidencc as this. 27 May 1794.

Mr. Cummings' commission.

The next instance relates to the agent victualler, a gentleman whose name was Mr. Cummings: he was victualler of marines in 1778:—this is in page 2294 of the printed Minutes. This allowance again is only for the purchase of stores: and, what is very material for your Lordships to remark, it was made a question at the Board on the 21st of January 1779, which was a little after the agency was given to Mr. Belli. To that agency I shall have occasion hereafter to call your Lordships' attention: but it is material to observe that it was made after that. The fifteen *per cent.* only attached upon the purchase of stores: and then there is a question whether he was liable or not to all losses and decays. Mr. Wheler and Mr. Francis contended that he was so liable. Mr. Francis observed that, if the agent was not, he could not perceive what service he performed that could intitle him to the sum of fifteen *per cent.* However, that like many others was carried by the casting vote of the Defendant, and it was made after, as I stated before, the agency given to Mr. Belli. I shall also beg to tell you, in remarking upon this piece of evidence, that it was not upon anything very extensive that the commission was given: it was trifling. I do not mean to vindicate it, but it was trifling and for nothing almost, when compared to the immense sum that was to pass through the hands of Mr. Auriol. My Lords, I do not know that upon this evidence I shall have occasion to trouble you any further, and therefore I will proceed to the other parts of the case.

Evidence of Mr. Brodie.

In answer to all this, I beg leave to call your attention to the evidence given by Mr. Brodie. Mr. Brodie, being asked by the Manager what the rate of commission was, stated in the strongest terms, and so plainly that he could not be shaken from it by the Counsel, that five *per cent.* was the usual rate of commission—five *per cent.*, not upon freightage or demurrage, but five *per cent.* upon the original purchases. But I have an evidence which I think an exceeding good one on my part—the evidence of a person not very inimical to Mr. Hastings, namely, Mr. Crofts, whom I shall have occasion hereafter to introduce to you; because, when the opinion of three merchants, of whom Mr. Crofts was one, was taken, what the person who furnished stores for Fort St. George ought to receive as a commission, he says, enumerating the articles upon which he is to receive commission,

Evidence of Mr. Crofts.

27 May 1794. upon the purchase of these stores—five *per cent.* One of the gentlemen who gave in this opinion to the Board was, as I stated, Mr. Crofts, the very friend of Mr. Hastings. So that I think, without a doubt and without controversy, five *per cent.* was the commission to be given upon the original provisions, and that five *per cent.* did not attach upon the expenses attending either the freightage or the demurrage.

The proper commission shown to be five *per cent.* upon the purchase.

Reduction of Mr. Auriol's commission.

I have told your Lordships that it was afterwards reduced, but the Defendant had no merit at all in the reduction, and even that reduction did not go as far as it ought to do. It was a mere reduction of ten *per cent.*, but it still continued at five *per cent.*, not only upon the original purchase, but upon all incidental expenses, namely, freightage and demurrage. As to the exorbitancy of the demand, I again recur, as I have done formerly, to the Defendant himself, and to those persons whom he has thought proper to favour and to reward. It is mostly from his own evidence that I take the liberty to say that the Commons of England have substantiated the charge.

Prodigality of the allowance.

What says Mr. Hastings, in his Defence at your Lordships' bar? "I admit the commission to be liberal." Liberal! What right has the Defendant to be thus liberal with the money of his masters? My Lords, if some brilliant services performed by any gallant officer in the field had called for an instant gratuity from the Company, and, the Company not being at hand, Warren Hastings was the person who was to bestow that gratuity, I should have thought it his duty to be liberal, to show the feelings of a grateful country. Whatever might have been the merits of Mr. Auriol, did he stand in that situation? Mr. Auriol's services I have no doubt were good; his attention and fidelity to the Board I have no doubt might be good; but if liberality be called for to be exercised towards Mr. Auriol, the Governor General should have written to the court of Directors—should have stated the specific merits of Mr. Auriol, and should have desired some reward for his services; but he should not have rewarded them in this way; he should not have saddled the Company with an immense commission upon a very extensive concern, which amounted to 30,000*l.* or 40,000*l.*, merely upon the idea of being liberal. You must substitute for the word "liberal" what the Defendant really in his own heart meant —"prodigal."

My Lords, I beg to call your attention to what Mr. Auriol

says upon the subject; and, if there were no other part of the case upon which I could rest it, I might safely meet the Defendant and his Counsel upon the evidence of Mr. Auriol himself. You will find his letter to the Council, of October the 15th, 1781, a year after he had this commission, in page 2822 of the printed Minutes:— 27 May 1794.

"Impelled," says he, "by a desire to alleviate any misrepresentations to my disadvantage, and to prove myself worthy of your countenance and support,"— Apologetic letter of Mr. Auriol.

And so he goes on,—

"Whilst I was at Fort St. George, I was informed that some persons, mortified at their own declining prospects and jealous of the more promising aspect of others, had thrown out invidious remarks upon the extent of my agency for the supply of that Presidency with provisions, etc., in its present distress, and on the amount of the commission which had been granted to me by the Board for this service. At first I paid little attention to such a report, conceiving it to proceed merely from envy, the natural consequence of disappointment, which would die away and be forgotten; but the unhappy reverse of fortune at Madras has been so severely experienced by all ranks of people there, and the only source of present relief—viewed by many with jealousy and desire—being constantly before their eyes, it is not surprising that the remarks at first propagated should spread and become more general. I understand even that they have been pointedly taken notice of and represented in private letters to Europe."

Why, my Lords, does Mr. Auriol think that it was only jealousy that occasioned these discontents? Was Sir John Macpherson, who was a member of the Supreme Council, jealous of Mr. Auriol? What does Sir John Macpherson say? He says plainly that every body was dissatisfied with the commission. You will find from Mr. Auriol's evidence that, in his conversation with Sir John Macpherson, he told him fairly that everybody was dissatisfied with the extent of the commission and with the rate of it, and advised a reduction. The reduction accordingly took place. The Defendant had no merit in the reduction. But there are several letters of Mr. Auriol's which you may read, and which will show you that in his opinion he thought the commission too high. In a letter of the 24th of March, 1781, he says,— General disapproval of the original commission.

"I acknowledge that the original commission was too high."

So that you have the evidence of Mr. Auriol himself that the commission was too high. But I have another witness also; I have the court of Directors as my witnesses. The moment they hear of this allowance, they order it to be reduced instantly.

27 MAY 1794. You have, therefore, upon this the very best evidence you can have. You have the opinion of the public; you have the opinion of the Defendant; you have the opinion of Sir John Macpherson, one of the then members of the Council; and you have the opinion of Mr. Auriol himself, who enjoyed the profits of that agency. I therefore say that, in reply to all the evidence they have brought forward, I have proved, I think, to the satisfaction of every man who hears me, that fifteen *per cent.* was an exorbitant commission, and that if Mr. Auriol had not been Mr. Hastings' friend, and one for whom he wished to make an instant fortune, he would not have ventured upon such a gift.

My Lords, there are various parts of the transactions which I must notice to you. There is one which perhaps may appear singular to your Lordships who hear me, because it is a new mode of accounting. It is different from what you ever heard of, and if it were to be established, perhaps we might recur to an era of general happiness, in which we could trust everybody with so much ease and felicity we might almost say that the millennium was arrived. These accounts, amounting to near 400,000*l.*, upon which Mr. Auriol's commission was 30,000*l.* or 40,000*l.*, were to be passed, not upon vouchers that he had bought the goods—not upon documents as to the price which he paid for the goods—not upon any charge made out respecting freightage or demurrage—but he was simply to give in the accounts upon honour. Is this a usual mode of accounting? Did your Lordships ever hear of it before?

No vouchers required of Mr. Auriol.

I should be glad to ask any of your Lordships what you would say to your steward who should tell you,—"I have spent you 30,000*l.* or 40,000*l.* since you were out of England, but I have no accounts: I have not a voucher for it. Your house is built, but I have no account;—but trust my honour?" The honour of many stewards, I believe, will go a great way in the opinion of many persons, but I should think it will not go as far as that—to say to a steward—"I take your word—I take your honour." Supposing a merchant were to write to his correspondent abroad to send him over merchandise to the amount of 200,000*l.* or 300,000*l.*, and he was not to receive the regular bills—the regular vouchers—for the purchase, but that he was to receive a letter,—"I charge you 300,000*l.* Upon my honour, I spent it all in your service; you have the full value of it." What would any man think of that? And yet this very thing

Mr. Hastings does in the person of Mr. Auriol. My Lords, I make no question but Mr. Auriol might, where honour is to be trusted, be confided in, but, my Lords, there are circumstances in which it is not fair to one's employer to trust any man. Mr. Hastings, if he had chosen it, might have trusted Mr. Auriol for himself; but what right had he to trust him for his employers? This too might have been done properly by contract; but perhaps other persons would have bidden cheaper than Mr. Auriol, and that was not the wish of the Governor General. 27 May 1794.

Mr. Larkins is directed to pass the accounts upon honour.

My Lords, the accountant general of the East India Company in Bengal, Mr. Larkins, was directed to pass these accounts upon honour. His letter to the Council seems to me to be a mixture of irony and ridicule, and not knowing, in short, what he was to do. You will find it in the printed Minutes, page 1404. He says:—

His letter to the Council.

"In obedience to your orders of the 12th of November, 1781, I have now the honour to report to you that, on an examination of the accounts of agents for the supply of other Presidencies, I find them to be correct"—

In what?—

"in their additions and calculations; that they correspond with those of the treasury in the sums charged in the latter as advanced to him; that the sums charged in his accounts correspond with the invoices of supplies sent to the other Presidencies; that the commission charged at fifteen *per cent.* upon the provisions supplied upon the charges of shipping them and upon the freight is accurately computed. The agent being upon honour with respect to the sums charged in his accounts for the cost of the articles supplied, I did not think myself authorised to require any voucher of the sums charged for the demurrage of sloops, either as to the time of detention, or the rate of the charge, or of those for the articles lost in going down the river; and on that ground I thought myself equally bound to admit the sums acknowledged as received for the sale of goods without requiring any vouchers."

Importance of a check upon charges for demurrage, &c.

Now, my Lords, what is the consequence of accounts being thus passed upon honour? What is the consequence of an agency? The agency could only be checked by vouchers. The only check is gone! Freight and demurrage is one of the most material articles in Mr. Auriol's charge. It might be for the interest—I dare say Mr. Auriol did not wish to do it—but it might be for the interest of an agent to detain the ships a great while. Your Lordships all know that almost the heaviest expense the merchant has is demurrage. It might be the interest of agents to keep the ship without proceeding on the voyage, because, all the time the ship was detained, he had the commission upon the

27 May 1794. demurrage. And in that case you see how very absurd, how very unjust, how very scandalous, an act it was to give a commission, not upon the purchases only, but upon the demurrage, the freightage, and other incidental expenses. The court of Directors upon a similar case gave a pretty decisive opinion.

Case adduced by Counsel as a precedent.

But, before I go to that, I will just advert for a moment to an evidence which the Defendant has brought forward by his Counsel, and on which I would only beg leave to remark to you that this was not the precedent which Mr. Hastings followed, but it is a precedent adopted afterwards for very different reasons, and under very different circumstances. Your Lordships will find in the printed Minutes, page 2314, that they produce an instance, as a precedent for what Mr. Hastings did to Mr. Auriol, that happened ten years afterwards, namely, in the year 1791. They are exceedingly fond of recurring to Lord Cornwallis, though I have shown, the day I had last the honour of addressing you, that every evidence they had brought forward and every testimony of Lord Cornwallis makes decisively against them. This does not make much for them. They produce one solitary instance, in 1791, relative to the extraordinary cattle found by the bullock contractor on their passage to Madras. It does not at all appear though that the person did not produce his vouchers; but I can easily conceive in this case that, if they had occasion to transport cattle, they could not, perhaps, get vouchers so readily in the transportation of cattle for two or three months. In a voyage they might be at a loss to get the vouchers, and therefore in some measure they must depend upon the character and credit of the person who undertakes such a sort of agency. But does this case in any measure apply to Mr. Auriol's? But they wish us to suppose they have brought two instances of it, though it is the very same instance. Further, there is another, dated in June in the same year; and, if your Lordships will have the goodness to examine the documents, you will find they relate to the same contract, and are only one and the same instance.

Then, as to the evidence they have brought forward to rebut that which the Commons have asserted, namely, that accounts ought not to be passed upon honour, you see the only one they have attempted; and that is ten years after Mr. Auriol's appointment. But I have another piece of evidence that was produced by the Commons, which, I

think, fixes the guilt of this case, and fixes upon the Defendant at your bar a direct breach of orders; knowing that, at the instant he did this, he was breaking the orders of the court of Directors. My Lords, the case respects one of the court of Directors, and your Lordships will find it in the printed Minutes, page 2826. There was in former time—a little before—a Mr. Vanderhagen, who had some transactions with the Governor and Council, and he was to pass his accounts upon honour. Your Lordships will hear the opinion of the court of Directors, which was given on the 23d of December, 1778, and which must have arrived in Bengal long previous to the appointment of Mr. Auriol. These are the words:—

27 MAY 1794.

Case of Mr. Vanderhagen.

"If the honour of Mr. Vanderhagen is to be taken for the justness of his bills, it is evidently become his interest to expend as much money as possible on the cantonments, because he draws a commission of fifteen *per cent.* We do not arraign the integrity of the present agent, but we shall ever disallow all modes of conducting public business on principles which make the honour of the agent the criterion of the amount of his disbursements, and render his interest incompatible with frugality, and consequently with the welfare of the Company. We therefore direct that the agency of Mr. Vanderhagen be forthwith discontinued; that you shall advertise for proposals"—

Decision of the Court of Directors against the passing accounts upon honour, &c.

this is very material, because it relates to all charges—

"to keep the cantonments in repair by contract, with good security for performance, unless you shall be convinced it may be better performed and at less expense by agency. And, in such case, the agent's emoluments must arise from savings made in conducting the business committed to his care, and on no account be calculated upon the amount of his expenditures."

So you see that you have here, a little before the appointment of Mr. Auriol, the specific declaration of the court of Directors against any commission being allowed upon the whole of the incidental expense, and against any person passing his accounts upon honour. And who do you think must have been the person who must have transmitted to Mr. Vanderhagen—for this was transmitted to him—the opinion of the court of Directors? It must have been read in Council before the Governor General, and must have been transmitted, I believe, by Mr. Auriol himself! Now, my Lords, I beg to appeal to you;—what can you think of the conduct of the Defendant? To what can you impute it, but to what he has afterwards—which I shall have occasion to remark to you—recognised and avowed, namely, the determination to benefit those who were with him, against the orders of his masters, the court of Directors? My

Communicated to Mr. Vanderhagen by Mr. Auriol.

27 May 1794. Lords, Mr. Hastings wishes to have you suppose that this agency was not given to Mr. Auriol with a view to make up a compensation for the loss which he had received, namely, the reduction of his salary when he was first appointed secretary to the Board of Council in Calcutta. My Lords, it was then thought by the Council that the salary for the secretary was too high. They reduced it. The real state of the case before you now is, that Mr. Hastings gave it to Mr. Auriol as an assistance to him, because his salary had been thus reduced. He wishes to get rid of this. He seems to tell you that it was only from the merits of Mr. Auriol. My Lords, I only beg you to read with attention the letter of Mr. Auriol himself. He there puts it upon the footing of his situation; namely, that though he did a great deal of business for the Company, his salary was not equal to his expenses. He there tells you, in positive terms, his opinion that it was given to him to make up the deficiency of his salary. I do not wonder that the Defendant wishes to get rid of this accusation. Because to what purpose do you make reductions—to what purpose do you look for economy in the expenditure of the public money—to what purpose make regulations, if it shall be in the power of the Governor General, by any act like this, to defeat all the wisest regulations that can be made, and to put money into the pocket of the individual, though his salary was diminished because it was thought by the Board and the Council at large to be too great?

The agency given to Mr. Auriol as a compensation for the reduction of his salary.

Evidence of Mr. Auriol.

Mr. Auriol, in his evidence—and they thought proper to bring him as a witness—being pressed upon this, of course, does not think it a subject upon which he is very desirous of giving an answer. My Lords, all I beg of you is, to read that evidence; for, though he seems rather inclined to impute the idea which I have just mentioned to the Board at large, yet it does attach and apply only to the Defendant at your bar. My Lords, I shall not quarrel with the evidence of Mr. Auriol. I am one of those who think that gratitude in any individual, and especially to a person in the situation that Mr. Hastings is—I shall always think that gratitude, though perhaps it is not reckoned among them, is one of the cardinal virtues; and therefore I shall leave his evidence without any comment from me, and merely submit it to your perusal.

My Lords, there is one other topic which I shall touch upon, namely, the impropriety of giving this to Mr. Auriol

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at all. Mr. Auriol as secretary to the Council had enough to do. If supplies were wanting, and those in haste, the providing of those supplies should have been given to persons conversant with the business, and not to a gentleman who could not possibly have any knowledge respecting it. It certainly was not the most economical way of advancing the interest of the Company: it certainly was not the quickest way in which these supplies could be sent. And I am sure that, when you look at all the circumstances attending the transaction—when you look at the last evidence which I have just mentioned to you, the words which Mr. Auriol used respecting the favour he expects of Mr. Hastings—when you retrace every circumstance that attends all this evidence of the agency—namely, the height of the commission, the reduction of it afterwards, the opinion of the public, the opinion of Sir John Macpherson, the opinion of the Defendant himself—I am sure you will be of the same sentiment with me, namely, that it was given to him by way of a job. The phrase is not a very polite one, but I cannot use any other, because I cannot find any other that will express my meaning so correctly.

His unfitness to undertake the agency.

My Lords, the next question that arises before you is the agency given to Mr. Belli, for the purpose of supplying Fort William with stores. This agency was given, I think, in the year 1776. It was afterwards, at the expiration of the year, converted into a contract. Mr. Hastings, not supposing that General Clavering had any knowledge of military affairs, not imagining that he was a person the best qualified, as I should have thought, of any to have regulated the quantity of stores and every material necessary to supply the fort at Calcutta, but imagining himself to be a better general than General Clavering, proposed at the Board that Fort William should be supplied with stores, and with provisions, and with a depôt to hold out a siege of four months.

Mr. Belli's agency for victualling Fort William.

When this proposition came before the Board, Mr. Francis seemed to think that something of the sort was necessary, but he thought four months considerably too long a period for victualling Fort William, and he suggested three months. When it came to General Clavering's turn to give his sentiments upon it, he saw in that instance only a little further than Mr. Francis saw. He was satisfied that there was in the proposition something latent; that this depôt was to be made, not for the purpose of assisting Fort William, but for the sole object of providing for one of Mr. Hastings' dependants.

Discussion of the subject by the Board; opinion of Mr. Francis.

27 May 1794. He was perfectly correct. General Clavering's opinion I shall have occasion to state to you presently. I have been under the necessity of calling your attention more than I could wish to a great deal of written evidence, which makes the subject rather more dry than I could wish. It is not my fault, but the fault of the subject. But I must again submit to you the necessity of it, because the whole object I have in view is this:—to show you by substantial proof that, at the time the Defendant committed these acts, he did it with a corrupt motive, and that all the excuses since have been solely after-thoughts, and for the purpose of protecting him from your Lordships' judgment.

General Clavering's objection to the agency.

The first of General Clavering's minutes is, I think, in the printed Evidence, page 1413. General Clavering says this, upon the instant that Mr. Hastings made the proposition:—

"The court of Directors have been so often amused with projects of private benefits and jobs, concealed under the cloak and appearance of the public good, decorated with all the colours that artifice and an affected zeal for the Company's prosperity could give them, that it will not surprise, after their experience of the fallacy of them, that they may doubt a little whether the present project for victualling the fort, as it is proposed by the Governor General, may not conceal likewise a job to serve a dependant. The history of the last six weeks would authorise any suspicion."

His counter-proposition.

Then he states what his opinion was with respect to the supply of Fort William;—that it should be eventually supplied with rice and firewood by contract, or on terms much less expensive and extravagant than those by Mr. Auriol. What do you think the answer of the Defendant is? The answer of the Defendant you will find in the same page; it is just what you might expect:—

Reply of Mr. Hastings.

"In the opinion given by General Clavering upon my proposals for laying up a store of provisions for the garrison of Fort William, his usual temper has displayed itself by an attempt to vilify the plan with hard and coarse invectives, instead of offering any objections to the propriety of it."

That is not so. He does expressly offer an objection, and he does not vilify the plan, but vilifies the motive. Now it comes to this:—

He avows his intention of proposing Mr. Belli.

"He has probably heard, or if he has not I will now declare, what I mean to do; namely, to propose a gentleman of my own family for this trust: I mean, my secretary, Mr. Belli; not because he is a private dependant whose services and fidelity for more than four years past have hitherto received no higher reward than a salary of 300 rupees per month, but because I think the due discharge of this trust of such

importance and so immediately my own province, that I wish to employ in it the person on whose honour I can place the best dependence." 27 May 1794.

My Lords, Mr. Hastings there has spoken also the truth. The whole object was a job for Mr. Belli; and with this view he instituted the agency for supplying the fort with stores and provisions. I should be glad to know upon what grounds it is that the Defendant justifies this transaction by calling in to his aid Mr. Francis? It is true that Mr. Francis did give his opinion that such a depôt for three months might be necessary, and he made other suggestions which were adopted by Mr. Hastings. But, my Lords, did Mr. Francis concur in several of the plans? Mr. Francis said, if it was to be done by agency, the opinion of merchants ought to be taken upon the sum that was to be paid to the agent as his commission. The opinions of three merchants were taken upon it; one of whom was Mr. Crofts. They state the several data upon which they go; one, I think, is twelve *per cent.*, the other five *per cent.*, and the other three: five *per cent.* for the purpose of provisions, twelve for wastage, and three for other things which I will state in a moment.

The amount of commission referred to a committee of merchants.

One would naturally have imagined that Mr. Hastings would have acceded to the opinion of the merchants, as well as Mr. Francis did; but that was not consistent with his original plan. With a view to carry Mr. Francis on, he agreed to the opinion of these merchants being taken, but it was never his intention to abide by them. However, the sentiment of the three merchants came before the Board. Mr. Hastings immediately says,

"They are quite wrong: I think, he cannot do it under thirty *per cent.*"

Their recommendation set aside by Mr. Hastings.

So that, for an agency to supply Fort William with a depôt of provisions, to keep up a constant stock for three months, he gives the agent thirty *per cent.* One would naturally have imagined, I am sure, in common cases—and I will put it to those who hear me—that you would have been more tender how far you gave a latitude in price to a person so nearly connected with you as your own secretary. Delicacy would have stopped you. You would rather have wished to abide by the opinion of any person than yourself, instead of saying the opinions of all men were wrong, you only were right, in a case where your own secretary was the object. Mr. Hastings gives thirty *per cent.* at once. Does Mr.

He proposes thirty *per cent.*

27 May 1794. Francis agree to thirty *per cent.*? Mr. Hastings wishes to shield himself upon that evidence. His Counsel and himself wish to lower that gentleman. Mr. Hastings shields himself whenever he can under his refuge and under his cloak. I do not wonder at his discretion, but here his shield fails him: it is not able to turn away the case proved by the Managers.

Protest of Mr. Francis.

My Lords, Mr. Francis expressly says, he will not agree to the thirty *per cent.* Sometimes he is stated to contravene everything the Governor General does. Here, though General Clavering is his intimate friend, he agrees to the first proposition of the Governor General; but, when he sees to what end this proposition is directed, he then comes forward and states his opinion, that he would have nothing to do with such a transaction.

Disapproval expressed by the court of Directors.

This transaction, however, is, like all the others, reprobated by the court of Directors. Mr. Hastings was aware that the height of the commission would strike them. Mr. Hastings was aware that they would connect with the height of the commission the circumstances and situation of Mr. Belli in his family. He therefore thought it a time to ensure the profits to Mr. Belli. He had before trained on the Council to it, by telling them that, if Mr. Belli did get more than thirty *per cent.*, and the court of Directors thought it too high, he would answer for Mr. Belli's refunding that money; making himself one with Mr. Belli in this transaction. The court of Directors do order that money to be refunded, as I shall show you presently; and there came a number of sham excuses and evasions, and the money is never refunded, and Mr. Belli retained the thirty *per cent.*

Conversion of the agency into a contract.

But, my Lords, the Defendant, not quite satisfied with the length of the agency, which was only to continue a year, converts this agency into a contract, upon the same terms. Did Mr. Francis agree to the contract? No; he reprobates it in the strongest terms, for the plainest of all reasons. I will read his minute, because it is more material than anything I can offer. It is couched in better reasoning than I can give you; besides, what is very material, it is delivered in the presence of the Defendant: to which he makes no reply, but seems desirous of shielding himself under the answer of Mr. Barwell. General Clavering was dead: Sir Eyre Coote succeeded in his room. I can scarcely mention the name of Sir Eyre Coote, with the attendant circumstances of it, without really grieving for that person; but I believe, after what you have seen, you will find that any connexion

with the Defendant, even to the best of characters, is dangerous. 27 May 1794.

My Lords, Mr. Francis, when this proposition came forward—But I shall state to you first of all the very extraordinary ground upon which he brings this proposition:—he tells you that the agent had lost by the thirty *per cent.*; that it was not enough for him, if he continued it even as an agent. But, by a singular mode of reasoning, because he loses by an agency of fifteen *per cent.* for one year, he makes him a present of the same loss for four years more! That is the real state of the case I have now the honour to mention. I would refer your Lordships to the printed Minutes, page 1442.

Sir Eyre Coote, of course, after the favour he had received, says,—

"I approve of the depôt of provisions."

The Governor General then states:—

Proposition of the Governor General.

"Having received frequent remonstrances from the agent of this depôt concerning the heavy losses aad inconveniences to which he is subjected by the present indefinite term of his agency, which obliges him to purchase the different articles of the stores at the current prices of the markets, and in such quantities as are specified in the prescribed lists, which in times of scarcity can neither be procured of equal quantities as in seasons of plenty, nor without an increase in the price sometimes even greatly exceeding the rates prescribed in the table formed by the Board, the Governor General recommends that this agency be converted into a contract, and fixed for a term of five years."

My Lords, I ought to tell you that, within, I believe, half a year after the granting of this agency, the expiration of the five years, for which term General Clavering, Mr. Francis and the Government in general, appointed him, was near expiring. I think that material, because it serves to unravel the conduct of the Defendant. Mr. Francis is supposed to agree to this measure, and he is the person whom Mr. Hastings claims as his witness in the transaction. Hear what Mr. Francis says upon it. It is in page 1443 of the printed Minutes:—

"Every objection urged against the disposing [of the bullock contract for five years, in the manner proposed, in my opinion lies with greater force against this proposition. Both of them stand in direct contradiction to the 36th Article of the Company's instructions to this Board, in which it is ordered that all contracts, with the conditions, be publicly advertised, and sealed proposals received for the same. Independent of all other objections, I object to the proposed contract as to an act exceeding the limits of our lawful authority. If it be in the power of a majority of this Board, at the moment of their own dissolution, to bind

27 MAY 1794. their successors by engagements for any term they think proper, and to disable them from correcting any existing abuse, it will be in vain for the Company, or Parliament, to change the administration of the Company's affairs in this country and to vest it in other hands. That question, however, if I continue in the Government, shall be tried on behalf of the Company, and, if it be in my power, the exorbitant profits of this agency, in whatever shape it may be continued, shall be reduced]. In the mean time,"—says he, as he did before upon the bullock contract, —"I object to the proposition, and I refuse to sign it."

Opposition of Mr. Francis.

What do you suppose is the answer of the Defendant? Your Lordships will find it in page 1447. He says:—

Reply of Mr. Hastings.

"Mr. Francis begins by observing that this contract is in direct opposition to the Company's orders, and that the business has hitherto been performed by agency, &c. To furnish a depôt of provisions for the garrison of Fort William is not a business to be settled by proclamation, nor to be disposed of to the lowest bidder, for the reasons which I before used, and which Mr. Francis, I know not why, has quoted against it. An agency with a fixed rate and a fixed commission is to all intents and purposes a contract. All that I have now proposed is, to fix the term and to bind the contractors by penalties. I can by no means agree with Mr. Francis that the agent victualler enjoys the most profitable employment that ever existed in this Government.

"Mr. Livius has an agency with fifteen *per cent.* commission on articles rated by former charges of commissaries, of course greatly above the real cost. Mr. Livius is professedly patronized by Mr. Francis who passed his bills. Nine or ten lacks thus paid to him are yet unaccounted for. In answer to Mr. Francis' insinuations, that it is natural enough for the agent to wish to secure himself before the expiration of the present Government, I avow the fact as to myself as well as the agent.

"When I see a systematic opposition to every measure proposed by me for the service of the public by which an individual may eventually benefit, I cannot hesitate a moment to declare it to be my firm belief, that, should the government of this country be placed in the hands of the present minority, they would seek the ruin of every man connected with me."

The ruin of every man connected with him! That is, they would see that, instead of thirty *per cent.*, the agent should have twenty, and that Mr. Auriol and every person in his situation, instead of fifteen *per cent.*, should have five. This shows you that the Defendant's idea of ruin is—if you do not get a great fortune: if you do not have such an account against the Company as will instantly put you in a situation of affluence, it is ruin to you. This is the idea of ruin:—

"And it is only, therefore, an act of common justice in me, to wish to secure them, as far as I legally can, from the apprehension"—of what?—"of future oppression."

So, if I think a contract unjust and wish to defeat it, that is

oppression! I should think that your Lordships will have better ideas of oppression. I think, if that be called oppression, oppression is right; but it is not my idea of oppression. 27 MAY 1794.

But you see by this what the Defendant's ideas were. You see that, if he had not the opportunity to give fortunes to those connected with him, if he had not an opportunity to disobey the orders of the Company, if he had not the means of raising instant pecuniary gratuities for his secretaries and for his personal friends, then he calls it ruin; and if you take it from him, he calls it oppression. I beg to ask, in what court of justice we are sitting? Mr. Hastings has told you, in former parts of his Defence, that you know not the system of Bengal; that you are ignorant of the Mohammedan law; that you are unacquainted with the system adopted by the Emperor of Hindustan. In short, he tells you that in this country you can form no idea of what passes in Bengal. I admit it, my Lords. But I trust we never shall see any such system adopted in England. I trust that the Parliament of England, as well as the court of Directors—I trust that your Lordships—will see the necessity, by punishing the individual at your bar, of showing to the world that these systems are mischievous and ruinous to every state, and, wherever they can be applied, they will yield nothing but corruption, and want of all restraint and obedience.

Corrupt system advocated by Mr. Hastings.

My Lords, the Defence of Mr. Hastings upon this Article is somewhat odd. He has given in the name of Mr. Francis as a testimony to the character of Mr. Belli. I am sure, from some knowledge that I have of that gentleman's connexions, that I shall not be very likely to detract from any of his merits. The merits of Mr. Belli are not now in question. The question simply is, whether the Defendant by this large extent of commission did wrong; and whether his object was, not to serve the Company, but to assist Mr. Belli. However, he refers to Mr. Francis for the fitness of Mr. Belli. I dare say that he might be a very fit person; I am not controverting that. He then refers to the accounts given in by Mr. Belli, with a view to show that, though the order of the court of Directors came out to India reprobating the agency given to Mr. Belli at thirty *per cent.*—though it states positively that ten *per cent.* ought to be refunded—though they give perhaps the best of reasons that men ever could give, namely, that upon the statement of the accounts the demand of the agent was exorbitant—though they tell you

Character of Mr. Belli not in question.

Accounts of Mr. Belli.

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that, after all the various calculations they have made, they see that General Clavering's statement of the account was right, and that Mr. Belli's statement was not right—he tells the court of Directors plainly that they know nothing about the matter. He refers everything back to them. He says,—

Insolent reply of Mr. Hastings to the court of Directors.

"You do not understand Mr. Belli's accounts. It goes upon a mistaken apprehension. Mr. Belli assures me he has not made thirty *per cent.*; and you merchants are ignorant men; you cannot cast up accounts. You can know nothing of the rate of commission."

Mr Hastings' language generally suits his situation. If he had told the court of Directors, as he did upon the expulsion of Cheyt Sing, that they were ignorant of all the circumstances that attended it—if he chose to say to them that they were unacquainted with the Mohammedan law—as part of them, I dare say, are—why, perhaps there may be some justice in his assertion. But what does he say they are ignorant of? They are not ignorant of the institutes of Tamerlane; they are not ignorant of the circumstances that attended the expulsion of Cheyt Sing;—no; but this body of merchants are ignorant of accounts!—These persons, who have, I suppose, in Leadenhall Street a hundred accountants, who themselves are all merchants—he tells them plainly,— "You are a parcel of ignorant men; you do not understand one word of it. Mr. Belli is the only man that understands the account, and therefore I will not make him refund." That is the language of the Defendant to his masters!

Now, I do not think the accounts very correct, though I am no great accountant myself; nor do I think your Lordships will; for, if you will turn to only one article in this very accurate account, what do you think one article of it

Charge of 10,000*l.* for "sundries."

is?—10,000*l.* for "sundries." It is in page 1440. In this accurate account, you will find—"by contingent charges for sundry expenses attending the execution of business,"— besides his commission, from the commencement, the 31st of January, 1780—it was about two years—10,000*l.*, that is, one lac 4,468 rupees; so that it is above 10,000*l.* for "sundries!" And yet this is the account which he sends back to his masters, the court of Directors! What do you think the

Silence of the Directors on the subject.

defence to that is?—The defence to that is, that the court of Directors, after the receipt of Mr. Belli's account and the Governor General's letter, did not order him to refund the money. He thinks he has got a great deal. Now, my Lords, it happens, however, that a witness we called

explained that to you; for he told you that the court of Directors never afterwards looked to it. The reason why the court of Directors never afterwards looked to it I cannot explain, though I may have my opinions about it. The Defendant has in this country powerful friends. I can account for it upon no other grounds, that any set of merchants should permit their Governor abroad to tell them to their faces that they are ignorant of their own accounts, when in these accounts there appears an entry of 10,000*l.* for "sundries." That they never should call their attention to that must arise from circumstances which are not exactly in proof before you, but which, I trust, your Lordships in considering this case will not hesitate upon. 27 MAY 1794.

But I recollect that, when an honourable friend of mine summed up this Charge, the Defendant, in reply to what he said, stated that some reflections had been thrown upon the accounts given in by Mr. Belli, and that Mr. Belli was in England to explain them. One would naturally have thought that, as part of this Charge went to those accounts, he would have taken the first opportunity to have summoned Mr. Belli, as a witness, to your bar. To my knowledge, Mr. Belli was in England. To the knowledge of the Defendant, as well as mine, Mr. Belli was going out to India. Did he apply to your Lordships for permission to examine Mr. Belli out of his turn? Did he ever, though pressed with those accounts, ask your Lordships or ask the Managers —and I am sure we would have consented to anything: nay, we have consented indeed in other cases—did he venture to examine Mr. Belli as to these accounts?—No! And then he calls Major Scott, to tell you that Mr. Belli was gone out of England six weeks. I could have told your Lordships that as well as Major Scott. Mr. Belli was to have gone to India nine months, to my knowledge, before he went. This is the defence set up by the prisoner to this Article.

Suspicious omission on the part of Mr. Hastings to produce Mr. Belli for examination.

There is another paper which the Defendant introduces, with a view to show, what I really believe he did not show, the character of Mr. Belli;—that the Company approved of the honour and character of Mr. Belli, because some stores, which were sold after the expiration of the contract, were sold for more than the Company gave for them to Mr. Belli. Are we, then, to suppose that the price of provisions, of rice and other articles, in India always remained the same; or does the price of corn, of hay, of oats, of anything in this country, always stand at the same fixed and current average?

Alleged profit on the sale of stores supplied by Mr. Belli.

27 May 1794. We all know they differ. It happened, therefore, I suppose, when these stores were sold, that the price rose considerably higher than when Mr. Belli bought them, and consequently he did not charge the Company for more than he gave. I believe that fairly of him. This is Mr. Hastings' defence to this Charge. It is no real defence: it is merely a subterfuge; and I am sure, like many others concerning which I have been under the necessity of addressing you, an after thought, brought forward in hopes of catching some favour from your Lordships, who, I am sure, will not be governed by such flimsy proofs.

My Lords, I have now done with that part of the Charge which relates to the more unpleasant state of it—namely, descanting upon the seven points which were in this Article, and which of course must be tedious, inasmuch as I was desirous of not attempting to make any reply without putting one document fairly against the other. That was the plan upon which I set out, and upon which I begged your Lordships' indulgence. I therefore think, my Lords, that I have shown, beyond a possibility of contradiction, that the contract to Mr. Sullivan, in 1781, was a corrupt transaction; that the Company lost one half by that contract; that, in order to favour Mr. Sullivan alone, he gave the contract; that with this view he left out all the most material clauses in it; that, with a view to assist two gentlemen in a loan, with the hope of getting their fortunes from India, he entered into that smuggling transaction to China.

Recapitulation.

I have shown to you that, in the year 1779, in the bullock contract which he gave to Mr. Crofts, the Company lost a considerable sum of money; that he gave it for the express purpose of corruption. I have shown to you that, in the year 1784, when he turned the contract into an agency with Sir Charles Blount, he did it from the same motive, and with a view to follow the same profligate system. I have shown to you that he gave to Sir Eyre Coote 18,000*l.* a year, in addition to 16,000*l.* a year which the Company had ordered him to receive. I have shown to you that he plundered the Nawab Wazir of the 18,000*l.* a year, after the Company ordered it not to be paid out of their treasury. I have shown to you recently, in the case of Mr. Auriol, which was in the year 1780, that it was done with a view to assist and gratify Mr. Auriol; in the year 1776, in the case of Mr. Belli, that he avowed the motive which led him to give the agency for the depôt of provisions in Fort William.

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I have shown you this; and I think, standing where I am, without going one jot further, I have a right against the Defendant, under your Lordships' favour, to the verdict of guilty. Before even I go to speak of the disobedience to the orders of the court of Directors, or the Act of Parliament which the Defendant has broken, I have a right, I say, to your verdict, from the corrupt nature of the transactions themselves. Even supposing that the orders of the court of Directors had not been so explicitly given against entering into any contracts without advertising—even though their resolutions had not been transmitted to the Defendant—I say, there is upon the face of the transactions concerning which I have had the honour to address you corrupt intention, on the part of the Defendant. No man in any office can be justified in having so acted: whether an Act of Parliament prescribe it, whether those who delegate you direct it, your own conscience ought to show to you the line beyond which you are not to pass.

The transactions corrupt *in se*,

My Lords, men in high situations are not placed there solely to assist their relations or those connected with them. They are not put there for the purpose of enriching every person who may be recommended to them. They are placed as the servants of the public, as the faithful guardians of the public purse and the protectors of the public honour. Therefore I say that, even without looking to the disobedience of orders, which orders were sanctioned by an Act of Parliament—I say that, even standing where I am, I have a right against the Defendant, as far as any person in my situation can have a right, to demand a verdict of guilty.

But, my Lords, I do not mean to stop here. I beg your Lordships to advert to what the Defendant has never adverted to—for hitherto all his defences have been mere matter of exculpation: they have been with a view to extenuate his guilt in the transactions—but I beg you to attend to that part in which he has offered no defence whatever, namely, the positive disobedience to the orders of the court of Directors; those orders sanctioned and justified by an Act of Parliament. Your Lordships must all of you recollect the Regulating Act in 1773. I beg to ask any of your Lordships, what was the purpose of that Act of Parliament? Was it not, as the preamble states, expressly, with a view to regulate all the systems in India? Were not those high and illustrious characters, General Clavering, Colonel Monson and Mr. Francis, sent out there with the

and especially prohibited by law.

The regulating Act of 1773.

27 MAY 1794. express purpose to execute the intent of that Act of Parliament? Was not the Defendant reappointed with a view to change that corrupt system which had been before exhibited in India, and which called to it the attention of the legislature of England?

Effect of Col. Monson's death upon the conduct of Mr. Hastings.

My Lords, the Defendant knows that upon these terms he was continued as Governor General. While General Clavering and Colonel Monson lived, they, with the aid of Mr. Francis, accomplished the objects for which they were sent. You will perceive that, till the death of Colonel Monson, the Defendant never ventured on any of the projects to which I have drawn your attention; but the moment that Colonel Monson was no more, he thought it a right time to advantage and benefit himself, as well as those connected with him. He thought that Mr. Barwell, not seeing quite through him, might be inclined to agree with him in the transactions which he proposed. From the death of Colonel Monson I may date all the mischiefs which have arisen since in India. I say, then, that the Defendant is doubly guilty; that he has not even ventured an excuse for this guilt, namely, the disobedience of orders. In what part of his Defence has he ever adverted to it? Has he ever endeavoured to explain away the offence? Has he ever attempted to show that, though he had not followed the letter of the orders, yet he still acted within the principle of them? No! He has now and then talked of his obedience to his honourable and excellent masters, but I defy him to show any one instance, since the death of Colonel Monson, in which he obeyed the orders of his masters, unless for his own immediate profit. But I can show, if there were occasion, ten thousand acts in which he disobeyed them;—nay, I believe, if you were to look over the consultations, you would find that there is not one order of theirs which, after the death of Colonel Monson, was fulfilled.

No explanation offered on the part of Mr. Hastings of his disobedience of orders.

In many cases, he has justified himself by the urgency and pressure of the occasion. He has met the first Charge by stating to you that Cheyt Sing was in rebellion; with regard to the next Charge, that the Begums of Oude were meditating hostility to the English. He has urged these as matters of excuse; and when he comes to the bribes personally taken by himself, he has endeavoured to throw it in that all this money was transferred to the service of the Company. My honourable friend to whom that Article was committed showed you the fallacy of his assertions.

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But, my Lords, with respect to the contracts, has he ever ventured to tell you that he was led to them—excepting one, indeed—by the pressure of the circumstances? Has he attempted to show you that the salvation of India depended upon Mr. Sullivan's having 40,000*l.* put into his pocket? Has he shown you that it was necessary for the salvation of India, that a person should have the opium contract who knew nothing about it? Has he ventured to tell you that the permanency of Bengal depended upon smuggling opium into China? Has he hazarded the assertion, that, without Mr. Crofts—who knew nothing about bullocks—had the bullock contract, Hindustan would be lost to this country? In short, my Lords, has he stated to you one ground why he has disobeyed the Company's orders? Has he hinted to you a palliation or an excuse? I ask any man who hears me, whether, in all these transactions, he conducted himself with a view to serving the Company; or whether he conducted himself with a hope of benefitting those connected with him? My Lords, there can be no hesitation upon the question. He could not have meant otherwise, because, if he had, he would have acted otherwise.

My Lords, there is another part of the Charge, which is what remains behind, and which it is my duty to call your attention to. In this part of the Charge, neither, has the Defendant attempted to offer any justification: I mean, that part of the Charge which relates to the sums of money lost by the Company.

Losses suffered by the Company in these transactions.

My Lords, an honourable friend of mine, who is absent from England, when he summed up the evidence upon this Charge, put it fairly in issue to the learned Counsel, whether such was or was not the amount of the losses suffered by the Company in these several transactions.* Neither the learned Counsel nor the Defendant have ever ventured to say that the computation of my honourable friend was incorrect, and that his statement was imperfect, or that his sums were falsely taken; and therefore, my Lords, I think that I cannot so well serve the cause in which I have the honour to be engaged, as by stating to you the words of my honourable friend, as far as relates to these sums, and advising your Lordships, when you review the evidence, to see whether they are accurately taken. I say that the Defendant, by not answering them, has admitted them.

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* See the speech of Sir James Erskine St. Clair; vol. ii. p. 478.

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I will state to you shortly the amount of the sums. With respect to the opium contract, there was a loss of 67,000*l.*; namely, that Mr. Benn gave 40,000*l.* to Mr. Sullivan, and that Mr. Young gave 20,000*l.* to Mr. Benn, besides 7,000*l.* which he had sold to some other person.

"The smuggling expedition, in the way in which they calculate it—for," he says, "I will give them even the advantage of their own calculations"—was 52,555*l.*

Upon the bullock contract the loss was 260,263*l.*

Upon Sir Eyre Coote's [allowances], between the Company and the Wazir, the expense and loss was 83,314*l.*

Upon Mr. Auriol's agency, allowing him credit for five *per cent.* upon his purchases, the rate at which the merchants would have done it, the loss was 34,396*l.*

Upon Mr. Belli's agency, after allowing him twenty *per cent.* which the merchants fixed for him, the difference between that and thirty *per cent.* which was charged is 34,432, during the term in which he enjoyed that contract and agency.

Here, then, my Lords, you have the sums, altogether 500,000*l.*, squandered in four years by the Defendant in India, in the way and in the manner in which the Charge states it. I state these sums as correct, because if he could have controverted the loss he would have done it; but in no one instance has he attempted it. Recollect then, my Lords, for a moment, the former charges which have been brought against him. Recollect that, with this 500,000*l.*, he would not have had an excuse for his cruelty to Cheyt Sing, nor would he have had any ground to offer for his plundering the palace of the Begums. This 500,000*l.* would have made up all that, by his own statement, the Company wanted. This 500,000*l.* he was desirous of extracting from the bowels of the country. This he was endeavouring, by plots, by scandalous and infamous pretences, to wring from the natives of Hindustan.

Consequent embarrassment of the Government.

My Lords, I have so far done with the Charge before you, and I wish now to call your attention to what Mr. Hastings has said in his Defence. With respect to the Commons of England, what I have to offer will be short. In the Defence at your bar, in the year 1791, he stated with great force all the arduous tasks he was engaged in, in India. He endeavoured to impress you with those benefits, which, in his opinion—I do not mean to say, in mine—accrued to the Company from his various acts and transactions. He did it,

Mr. Hastings' Defence.

my Lords, with some impression: he is a master of language. He turned to the House of Commons, and, after stating at full length these services, he said, in words which must naturally have made some impression upon all who heard him,—"I gave you all. You have rewarded me with confiscation, disgrace, and a life of impeachment."* 27 May 1794.

He accuses the Commons of ingratitude.

Vindication of the Commons.

On the part of the Commons of England, I deny the accusation. My Lords, justice demanded that the sacrifice should be made, and it was made at the great pains and labour of those who undertook the task. The Commons of England, my Lords, are not without their feelings, any more than Mr. Hastings. Though the Defendant at your bar, in all his transactions towards Cheyt Sing, [acted] with an unrelenting heart, with a mind full of malice and pride—though he expelled that unfortunate man from his zamindary, drove him from the seat of happiness and his former settlement to be a wanderer in Hindustan—though, with all the bitterness of cruelty, he instigated the Nawab to the robbery of his mother—though, in the same spirit, under false and scandalous pretences, he attacked the palace of the Begums and plundered the zanana of defenceless women—though in those merciless acts the Defendant had no compassion, yet, my Lords, I and those with me have our feelings for him. My Lords, they are feelings which every one of any humanity and character must feel, when he sees a man who has violated those duties that he owed to his situation in society called upon to answer for his crimes, and to abide the vengeance which the law demands as a necessary example. In that case, and in no other, feel I for the Defendant.

My Lords, perhaps he may be intitled to more than men in ordinary cases standing at the bar of justice. When I recollect the greatness of his former power—when I recollect all the splendid appendages of his situation, and contemplate the height from which he is fallen, I am not without my feelings;—but justice demanded it. My Lords, it would have been much more grateful to all my friends around me, it would have been much more grateful to the feelings of the Commons of England, if, at the return of Mr. Hastings to his native land, they could have met him, not with censure and impeachment, but with those rewards and honours which are the sure attendants upon the meritorious and the good.

My Lords, the people of England are not unjust. They

* Mr Hastings' Address in his defence; vol. ii. p. 521.

27 MAY 1794. may be misled by passion; they may be duped by artifice; they may be swayed by momentary impulse; but they are sure, in the end, to return to the unerring dictates of truth and reason. The Defendant, therefore, falsely accuses the Commons of England of ingratitude. The fault lies at his own door. If his conduct in India had been the reverse of what it was, his situation in England would have been far different from what it is.

Complaints on the part of Mr. Hastings of the length of the trial.

My Lords, there is another fruitful topic to the Defendant, upon which he has often addressed your Lordships. He has complained of the length of the trial, with the hope of moving you to a degree of compassion for him. My Lords, I can say with confidence, that the length of the trial no man laments more than I do; but, my Lords, I can assert also, with confidence, that the fault is not with us. But, however that may be, wherever it may be, I trust that the length of the trial will form no ingredient in your decision. There may be times when that with propriety may be looked to; but, my Lords, any verdict of guilty or not guilty must go—and, because it must, I know it will go—upon the general question arising from the facts produced in evidence before you. If that be the case, as I know it must, I am clear of the verdict of this high Court.

Conclusion.

My Lords, I have now brought to a conclusion everything I have to offer to you. I am sensible, my Lords, that much has been omitted. The task committed to me called for talents and abilities of a higher cast than mine. I have, however, one consolation left—that any omissions of mine will be rectified by the power and the discernment of the Manager who will address you last. But, my Lords, if it should not shine as it always must shine, I still have a consolation left, in recollecting the high and exalted characters to whom I am addressing myself.

My Lords, I have, with feelings that no language can express, to offer to you my most grateful acknowledgments for that kindness and attention with which you have honoured me; and, my Lords, I have only to hope, that, in the decision of a cause the most grave and important that ever occupied any human tribunal, your judgment will be founded upon the solid principles of substantial justice, agreeable, as I know it will be, to the dictates of your own consciences, and, what every good man and every real friend to his country would wish it to be, satisfactory to the Commons of Great Britain.

SPEECH OF THE RT. HON. EDMUND BURKE, MANAGER FOR THE HOUSE OF COMMONS, IN GENERAL REPLY ON THE SEVERAL CHARGES; 28 MAY, 1794.

MY LORDS,—This business, which has so long employed the public councils of this kingdom, so long employed the greatest and most august of its tribunals, now approaches to a close. My Lords, I confess that, in this critical moment, I feel myself oppressed with an anxiety that no words can adequately express; because the fruit of all these labours, the result of all these inquiries, the final event of the decision of this great tribunal, is to determine, not only whether all our labours have been vain and fruitless, but whether we have abused so long the public patience of our country—whether we have so long oppressed merit instead of avenging crimes. I confess I tremble when I consider the judgment which is now going to be passed, not on the culprit at your bar, but upon the House of Commons itself, and upon the public justice of this kingdom, as represented in this great tribunal. It is not he that is upon his trial, it is the House of Commons that is upon its trial; it is the British nation that is upon its trial, before all other nations; before the present time, and before a long, long, posterity! 28 MAY 1794.

My Lords, at this moment, therefore, I should be very much ashamed if I attempted to use to your Lordships any sort of rhetorical blandishments whatsoever. If I were possessed of such an art, or if I had a disposition towards it, it is suitable neither to the body that I represent, to the cause which I sustain, nor to the dispositions which I individually have upon such an occasion.

My Lords, we know very well what these blandishments too frequently are. We know that they are used to conciliate the affections of the tribunal rather to the person than to the cause. We know that they are too often used to reconcile the conscience of the judge to the violation of his duty. We know that they are too often used in great and important causes, like this particularly, to reconcile the great and powerful factions of a protected criminal, and to

28 MAY 1794. the injury of those who have suffered by his crimes; thus inducing all parties to separate in a kind of good humour, as if they had only a slight quarrel over a table to compromise. All this may now be done, at the expense of the persons whose cause we pretend to undertake. It is intended that we should all part with the most perfect complacency and good humour to one another, while nations—whole suffering nations—are left to beat the empty air with the cries of misery and despair. Far, therefore, far from the Commons of Great Britain be all manner of real vice; but far, far, ten thousand times farther—as far as from pole to pole—from the Commons of Great Britain be the whole tribe of false, affected, counterfeit, hypocritical virtues! These are the things which are ten times more at war with virtue—these are the things which are ten times more at war with real duty than any real vice, known by its name and distinguished by its proper character in the world.

One of the Counsel for the prisoner at the bar has told your Lordships that we have come here on account of some doubts we entertained, in the House of Commons, concerning the conduct of the prisoner; that we should rejoice when his defence, and when your Lordships' judgment, shall have set him free, and shall have discovered to us our error; that we should mutually congratulate one another upon this happy discovery; and that the Commons and the Managers who represent them here will be the first to rejoice in so happy an event and so fortunate a discovery.

Uncompromising character of the prosecution.

My Lords, far—far—far from it!—far from us be that false candour! No; we never would, nor can we conceive that we should, do other than pass from this bar with indignation, with rage and despair, if the House of Commons should, upon such a defence as has here been made against such a charge as they have produced—if they should be foiled, baffled and defeated, in it. No, my Lords, we never should forget it. A long, lasting, deep, bitter memory of it would sink into our minds; for we have not come here to you in the rash heat of a day, with that fervour which sometimes prevails in popular assemblies and frequently misleads them. No; if we have been guilty of error, it is a long, deliberate error; an error the fruit of long, laborious, [inquiry]; an error which is the fruit of a procedure in Parliament, before we came here, the most minute, most circumstantial and most cautious, that ever was instituted. For, instead of coming, as we did in Lord Strafford's case and in some others, voting

the impeachment and bringing it up on the same day, it was voted upon a general sense prevailing in the House concerning his criminality. We undertook it after an examination which began in the year 1780, which produced in 1782 a body of resolutions condemnatory of almost the whole of this culprit's conduct, made by the Lord Advocate of Scotland in our House, and carried by the unanimous consent of all parties in it: I mean the Lord Advocate of Scotland, now one of his Majesty's principal Secretaries of State, and at the head of this very Indian department. 28 MAY 1794. History of the Impeachment.

After that, when this Defendant came home, we re-instituted our inquiry; we instituted it, as your Lordships and as the world knows, at his own request, made to us by his agent, then a member of our House. We entered into it at large. Deliberately we moved for every paper which could give us light in the cause. They were not only produced on the part of the prosecution, as is rarely the case with grand juries, but the friends of the prisoner produced every paper which they could produce for his justification. We called all the witnesses which could enlighten us upon the subject; and the friends of the prisoner likewise called all the witnesses which could possibly give any light in his favour upon the subject. And, after all these long deliberations, we referred it to a committee; and, when we thought it had gone through that committee, and thought it in a situation to digest [into] these Charges, we referred them to another committee; and the result of these two committees and that long examination is the impeachment now at your bar.

So that, if we are defeated here, we cannot plead for ourselves that we have done this from a sudden gust of popular passion, which sometimes agitates and sometimes misleads the most grave popular assemblies in the world. No; it is [either] the fair result of a twenty-two years' deliberation that we bring now here before you, [or] it is just and true what the prisoner says, that nothing but malice in the Commons of Great Britain could possibly produce such an accusation as the fruit of such an inquiry. We admit that we are at issue upon the point; and we are now before your Lordships to determine whether this criminal has abused his power in India for fourteen years, or whether the House of Commons has abused its inquiries, made a mock of its inquisitorial capacity and turned it to purposes of private malice and revenge, or whether it has done its duty. The question is, whether he was fourteen years guilty of abuse in India, or we have been twenty-two years guilty of abuse

28 May 1794. in the House of Commons. Therefore, we are not come here to compromise matters at all. We do admit that our fame, our honours, nay, the very being of the inquisitorial power of the House of Commons, are gone, if this man is not guilty. We are not come here to solve a problem, but to call for justice. We [assert] that he was guilty, or we should not have brought him here. For, great and powerful as the House of Commons is, great and powerful I hope it always will remain; but we do know that the introduction of forty millions of money into this country, the fortunes that are made and pervade every part of this kingdom, that do not leave a single parish in it unoccupied by the party and faction of the Defendant, which he has made by the oppression of the people of India—we know that that faction itself is too great for the House of Commons, with all its power and reputation, to combat, if we did not know that we have brought before you a cause which nothing can resist. Therefore we must beg to state in what situation this cause now stands for your judgment.

Personal influence of the Defendant.

We digested that immense mass of criminality into twenty Charges, which we laid before you. This immense mass of criminality, my Lords, was itself taken from another immense mass of criminality; and whether what we have brought forward or what we have left is the worst, I assure you for one, as a person most concerned in this inquiry, it is impossible for me to determine. After we had brought it forward, finding the magnitude of the cause—the greatest cause for extent that ever was tried before any human tribunal, to say nothing of the magnitude of its consequences—when we had brought that cause before you, we found, in the course of it, from whatever causes, without at present blaming the prisoner, without blaming your Lordships, and far are we from imputing blame to ourselves—but whatever the causes were, this trial was like to be protracted to an unusual length. The Managers for the Commons, feeling this, went up to their constituents, to desire from them the means of reducing it into a compass fitter for them to manage and your Lordships to judge. When they had done so, the second selection was made upon the principles of the first. Not upon the idea that what we left could be less sustained; but that, when it was necessary we should make a selection, we ought to make it, as we did, upon some proper, judicial and prudential, principles.

The principle upon which we made the selection was this:—we chose to reduce the whole to four Charges—to

four great heads of guilt and criminality. Two, namely, Benares and the Begum's Charge, to show the effects of open violence, injustice and wrong; the second two Charges to show the corrupt principles upon which the prisoner proceeded; one as showing his passive corruption in receiving a bribe and corrupt emolument; the other his active corruption, in endeavouring to form a faction to defend his passive corruption, and the forming a most formidable faction—as in truth such a faction he did form, both abroad and at home. There is hardly any one act of his corruption in which there is not a presumed violence; nor any act of his violence in which there is not a presumed corruption. They mix with one another. But we thought that this distribution would bring before you the spirit and genius of his government better than anything else; and we were convinced that if, upon these four great heads of charge, your Lordships did not find him guilty, there was no one thing which could be added to it that could persuade you so to do. 28 May 1794. General plan of the impeachment.

In this way the matter comes now before your Lordships. I shall avoid treading over the same ground which has been trod with such extraordinary abilities by my brother Managers—of which I shall say nothing at all but that the cause was supported with abilities equal to it: no abilities are beyond it. But, my Lords, when it comes to me now to speak, if I was to speak of apologies for myself perhaps I could make none at all. My own abilities, as weighed with the cause, ought to have left me out of it: but I have a duty which supersedes every personal consideration, that is, my obedience to the House of which I have the honour of being a member; which is all the apology I shall make. We are the Commons of Great Britain, and we cannot make apologies. I can make none for my obedience: they want none for their commands. They gave me this office, not from any confidence in my ability, but in confidence of the abilities of those who were to assist me, and in confidence of zeal, which oftentimes supplies the want of great abilities.

In considering everything relative to the prisoner here and to his defence, I find that it resolves itself into four heads:—

First, his demeanour in his defence; upon which we shall make some observations. Next, the principles of his defence. Then, the means of his defence; and then, the Heads of the Charge.

28 May 1794. testimonies which he brings in order to fortify those means, to support those principles, and to justify that demeanour.

Demeanour of the Defendant.

My Lords, as to his demeanour, I will venture to say, who have examined long and compared carefully all the conduct of prisoners before this high tribunal, from the moment that the Duke of Suffolk appeared before it until my Lord Macclesfield appeared before it—from persons of dignity, my Lord Bacon, the Earl of Macclesfield, the Duke of Suffolk, to the smugglers who were impeached before Parliament in the reign of King William—I will venture to say that, through that whole line of Parliamentary proceeding, from that day to this, anything similar to the demeanour of the prisoner was never seen, from the beginning of the history of Parliamentary trials down to this day. What it is that could have encouraged him to that demeanour your Lordships will, when you begin seriously to reflect upon this matter, consider.

God forbid that the Commons of Great Britain should wish, or even that they should bear, that any prisoner should be circumscribed in the means or enervated in the vigour of his defence! God forbid that such a thing should appear to be desired by anybody in this British tribunal! But, my Lords, there is a behaviour which indicates a want of sense, a want of decorum, a want of attention to the local situation of human affairs—a demeanour which indicates, not the firmness of conscious innocence, but the hardened audacity of long, habitual, desperate, insolent, guilt. My Lords, there is a nobleness in modesty: there is something in insolence that is always base and servile. A man who is under the accusation of his country is under a very great misfortune. Though his innocence may appear and shine out like the sun, yet for the moment it is under a cloud; his honour is in abeyance; his estimation is suspended; he stands, as it were, a doubtful person in the eyes of all human society. And, in that situation, not, undoubtedly, a timid, not an abject, but a modest behaviour becomes such a person.

Demeanour of accused persons among the Romans.

Among the Romans, who were a nation that understood the decorum of life as well as we, though the persons there accused must be, by the nature of their constitutions, accused by mere private accusers, yet they considered themselves in that situation that the moment such a person was accused he immediately assumed mourning. He was a [*sordidatus*], as

they call it. And that rule and that decent usage continued on from the time of the Romans till this very time. No man was ever brought before your Lordships that did not carry the outward as well as the inward demeanour of modesty, of fear, of apprehension, of a sense of his situation, of a sense of our accusation, and a sense of your Lordships' dignity. 28 MAY 1794.

My Lords, these, however, are but outward things. They are, as Hamlet says, "actions that a man might play." But, my Lords, this prisoner has gone a great deal further. He has, instead of defending himself, cast out a recriminatory accusation upon the House of Commons. He has considered himself, not as a person under the condemnation of his country, suspended, before he knows that that condemnation shall receive your verdict, and whether you shall join it or no; but, my Lords, he considers himself like the suffering heroes of antiquity. Joining with them he accuses his country of the blackest ingratitude, of the basest motives, of the most abominable oppression, not only of an innocent but of a most meritorious individual, who in your and in our service has sacrificed his health, his fortune, and even suffered his fame and character to be called in doubt, from one end of the world to the other. And that he has said so, I must confess I could hardly have believed, or that any man could so comport himself at your Lordships' bar, if I had not heard it with my ears, and afterwards reflected both upon his language and that of his Counsel. After stating the wonderful things that he did for us, he says,—"I maintained the wars which were of your formation or of that of others, not of mine. I won one member of the great Indian confederacy from it by an act of seasonable restitution. With another I maintained a secret intercourse and converted him into a friend. A third I drew off by diversion and negotiation, and employed him as the instrument of peace. With the rest, when you cried out for peace and your cries were heard by those who were the objects of it, I resisted this, as I did every other species of counteraction, by rising in my demands, and I accomplished a peace—a lasting and, I hope, an everlasting peace with one great state; and I afforded the efficient means by which a peace, if not so durable more seasonable at least, was accomplished with another. I gave you all; and you have rewarded me with confiscation, disgrace, and a life of impeachment!"

Recriminatory charges on the part of Mr. Hastings.

Alleged ingratitude of the Commons.

Comparing our conduct with that of the people of India, he says,—"They manifested a generosity of which we have

28 MAY 1794. no example in the European world. Their conduct was the effect of their sense of gratitude for the benefits they had received from my administration.—My Lords, I wish I could say as much of my own countrymen!"

My Lords, here then we have before you the prisoner in his demeanour not defending himself, but recriminating upon his country; charging them with perfidy, ingratitude, oppression, and making a comparison with the banyas of India, to whom he gives the preference to the Commons of Great Britain. My Lords, in such a situation as this, what shall we say to this demeanour? My Lords, with regard to this charge of using him with ingratitude there are two points to be considered: first, the charge of ingratitude, which supposes great services to have been rendered; the other innocence, which is an answer to great crimes that are charged.

The alleged services of Mr. Hastings not in evidence before the Court.

My Lords, as to the great services, they cannot, they have not, come in evidence before you. If you have received them, you have received them obliquely. You have received them only from the prisoner, to prove to you that there were great distresses and great calamities in India during his government, upon which he attempted to justify obliquely the imputation of corruption that was charged upon him; so that you have not properly in issue these services. And if you have received them directly from him, as a matter of recriminatory charge upon the House of Commons, you have not suffered the House of Commons to examine into the validity and merit of this plea; so that, upon this recriminatory charge, which makes a considerable part of the demeanour of this prisoner, the House of Commons have not been heard and cannot be heard; and, therefore, I do claim and demand it, on the part of the Commons of Great Britain, that that part of the recriminatory charge—whether you take it as a matter to render odious the conduct of the Commons of Great Britain, or whether you take it in mitigation of the case of the prisoner, to prove that he could not be guilty of those crimes, and as a presumption in his favour that so virtuous a servant never could be guilty of the crimes with which we charge him—in whichever of these two lights you will be pleased to consider this matter, I say, you have it not before you, and, therefore, must expunge it from your thoughts and separate it entirely from your judgment.

It is not that I shall not come afterwards to say a few

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Necessity of removing false impressions.

words upon this subject, to remove extraneous impressions from your minds; for, knowing that your Lordships are the best judges, as I do and ought to presume, yet I cannot say that you are not men, and that, a great deal of matter, however irrelevant in our judgment, being applied to your minds, it does become us to take some notice of it. If we take notice of such a thing, it is [not in the way of argument, but with a view by one sort of]* prejudice to destroy another prejudice. If there is anything in evidence which destroys it, we shall recur to that evidence. If there is nothing to destroy it but in argument, we shall have recourse to that argument; and if we support that argument by authority and by documents [not in your Lordships' Minutes],* I hope it will not be the less argument because it is so supported.

Unjustifiable language imputed to the Managers.

After stating this recriminatory charge of injustice upon us, there is another part of his demeanour which I beg leave to submit to your Lordships; that is, that we have not only oppressed him with unjust charges—which is a matter for your Lordships to judge, and is now the point in issue between us—but he has accused us, that, instead of attacking him by fair judicial modes of proceeding, by stating clearly and plainly crimes, by proving those crimes and showing the necessary result of them, we have oppressed him with all sorts of foul and abusive language; so much so, that every part of our proceeding has, in the eye of the world, more the appearance of private revenge than of public justice.

Responsibility of the Managers.

My Lords, this is his demeanour, accusing the Commons of Great Britain. My Lords, the Commons of Great Britain are a rustic people; a tone of rusticity is the proper accent of those whom we represent. We are not acquainted with the urbanity and politeness of extortion and oppression. We know nothing of the sentimental delicacies of bribery and corruption. My Lords, we speak the language of truth, and we speak it in the plain language in which truth ought to be spoken. My Lords, with regard to this business, if we were to answer for anything we do, we must answer to that body we represent, and that hears us; we owe no apology in the world but to them. But, my Lords, when we have been thus accused by the prisoner at the bar, when we have been thus accused by his Counsel before your Lordships, when we know that this is circulated in every paper, and when we know it is circulated in every circle of ladies and

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* Revised copy.

28 May 1794. others of this kingdom, when there is no part of the kingdom which has not rung with the recriminatory accusation against the Commons of Great Britain, it does not become us to make our defence—we should betray our cause if we did—but it does become us, when the public judgment, which does very often prevent judgment, that very often does take away the effects of it, and that does enervate it more or less—when that judgment is like to be misled, then it becomes the duty of the Commons of Great Britain to give a more proper tone and a juster way of thinking to the public upon such an occasion.

Vindication of the expressions employed by the Managers.

My Lords, when ignorance and corruption have usurped the professor's chair of science and of virtue, in such a case it is high time for the Commons of Great Britain to speak out. We know that the doctrines of folly are of great use to the professors of vice. We know that it is one of the signs of of a corrupt and degenerate age, and one of the means of protecting its corruption and its degeneracy, to give soft emolient names to vices and to crimes. We know that the world is very much influenced by names. We know that terms are the representatives of sentiments, and that, when persons in the seat of a censorial magistracy use compromising expressions of vices and of crimes, when they express no horror at the crime, and when they express no indignation at the criminal, it gives a just ground to presume that they do not believe him guilty, or that they themselves are in treaty in order that they should themselves, some time or other, assume that power which they blame in another; that there is only a rivalship in guilt between them; and that, if they can once remove the criminal, every one of them may hope sometime to share that power to the abuse of which they are so tender.

Therefore, to remove such an imputation upon us, we say, the Commons of Great Britain are not to be instructed in the language which they ought to hold by the gentlemen who have made profitable studies in the academies of Benares and of Oude. We know how we are to express a just indignation against the rude, insolent and culpable, criminals of the East. We tread in the steps of our ancestors in what we do, and we use the language which our ancestors have used. Your Lordships well know, for you must be conversant in this kind of reading, that you had one of the greatest men within the country, that you had one of the greatest men of the law, and one of the greatest men of the state, a peer of your own body, Lord Macclesfield, before

Case of Lord Macclesfield.

you. Yet, my Lords, that peer did but just modestly hint a disapprobation of the House of Commons and the Managers of the proceedings of the Commons against him, and consider something in them as hard, and the Managers did think themselves bound *seriatim*, one after another, to express the utmost indignation at it, in the harshest language that could be used against that man and that criminal, for no greater offence than that. Why did they do so? They knew it was the language that became them. They lived in an age in which politeness was as well understood and as much cultivated as it is at present; but they knew what they were doing, and they were resolved to use no language but what their ancestors had used, and to suffer no insolence which their ancestors would not have suffered. We tread in their steps: we pursue their methods: we learn from them, and shall never learn at any other school. 28 May 1794.

Case of Lord Bacon.

We know from history and from the records of this House that Lord Bacon has been before your Lordships. We know that, when Lord Verulam's name is mentioned, everything of genius the most profound, everything of literature the most extensive, everything of discovery the most penetrating and researching, everything of observation on human life the most distinguishing and exquisite—all these you mention when you mention Lord Bacon. Yet, when he was brought here before your Lordships by the Commons of Great Britain for having received presents, what was his demeanour? Did he require his Counsel, who acted under his orders, not "to let down the dignity of his defence?" No. That Lord Bacon, whose least distinction was, that he was a peer of Great Britain, a Chancellor of Great Britain, [and the son of a Lord Keeper,]* how did he behave himself? Like a man who knew himself; who was conscious of merits of the highest kind; who was conscious that he had fallen and lapsed. The House of Commons did not spare him. They brought him here. They found spots in that sun. And what was his behaviour? That of contrition, that of humility, that of repentance, that which belongs to the greatest men lapsed and fallen in human infirmity and error. What was your Lordships' conduct towards him? You fined him 40,000*l.*, notwithstanding all those merits; notwithstanding his humility; notwithstanding his contrition; notwithstanding the decorum of his behaviour, so well suited to a man under

* Revised copy.

28 May 1794. the prosecution of the Commons of Great Britain before the Peers of Great Britain. You fined him 40,000*l.*—a sum fully equal to 100,000*l.* now. You imprisoned him during the King's pleasure, and disqualified him for ever from having a seat in this House and any office in this kingdom. This is the way in which the Commons behaved formerly, in which your Lordships acted formerly, when no culprit at this bar dared to hurl a recriminatory accusation against them, or dared to censure the language in which they expressed their indignation at his crimes.

Further justification of the terms of obloquy applied to Mr. Hastings,

The Commons of Great Britain, following those examples, fortified by them, knowing no other rule, knowing no compromise with guilt either in act or in language, have continued, and do not disclaim one word that they have said. My Lords, they have used no abusive and illiberal expressions. Far be it from them! I have used, and will use again, those expressions that are proper to convey guilt. After describing the magnitude of the crime, we describe the magnitude of the criminal. We have stated him not only to be a public robber himself, but that he was at the head of a system of robbery; that he was the captain-general of the gang under which the whole was arrayed, disciplined and paid. That is what we offered to prove to you, what in part we have proved to you, and the whole of which, I believe, we could prove. And, in a direct criminal charge describing a criminal of great magnitude, we don't abate in the least, as we are unacquainted with compromises with vice.

Whenever we describe a man who has abused his power by violence and wrong, we call the thing tyranny, and the man a tyrant. When a man takes by violence money that does not belong to him, we call the thing a robbery, and the man a robber. When he takes money clandestinely that does not belong to him, we call the thing a theft, and him a thief. When a man by forged papers takes money that does not belong to him, we call it a forgery. When a man produces false papers to charge his employers with money which he converts to his own account, we call it a breach of trust. When a man promises a great native of the country his bond for a sum of money, and having received the money refuses to give his bond, using his power to justify his wrong, then we call him a cheat, a sharper and a swindler. We have used such names; we use them all: and all these crimes, with all these names, we apply to the prisoner; and we are sorry that the English language does not afford us adequate terms

to convey our horror and indignation at the greatness, the multitude and the enormity, of his crimes. 28 May 1794.

Then how comes it that we should be blamed in general for taking this course? Why should it be supposed that we are actuated by revenge? I give two reasons for it—corruption and ignorance. Corruption, because you know, and we all know—it is a matter of notoriety; it is a matter that is not below proof, it is above proof and supersedes all proof—that thousands of fortunes have been made, and therefore thousands of tongues have been employed to justify the means by which these fortunes have been made. When they cannot deny the facts, then they attack the accusers; they attack their conduct; they attack their persons; they attack their language in every way whatever. I am sure your Lordships will not think, after all you have heard, and I have heard even this day, by a libel sent to me just before I entered into this Court *—and every one knows from what quarter it comes—that I should be silent upon such an occasion as this. The next cause is ignorance. The ignorance is, that people confound that language and that mode of proceeding which belong to private society with what belongs to a great judicial situation. A man who uses the high criminatory tone which ought to be used upon great crimes and great offences in great places, when he attempts to disturb private society in that tone trespasses upon the laws of society; because the society is not met for the punishment of crimes, and it only introduces heat and anger when there is no method of settling the matter. Accordingly, in such society, every one knows that palliating names are given to vices. Every one knows that a lady who is guilty of adultery is commonly called gallant. Every one knows that a gentleman who is guilty of adultery is commonly called a man of good fortune, sometimes in French and sometimes in English. But would that be the tone which would become a person in a Court calling those people to an account for that horrible crime which destroys the basis of human society? No: this is not the way of proceeding. It is from a sense of duty that we use this language; though we are criminated by persons who suppose we are not actuated by justice, but by a sense of revenge.

Causes of the disapprobation of the course pursued by the Managers.

Corruption.

Ignorance.

How does it happen, then, that we are accused of revenge, and how comes it that we do not act in such a way as to put

Imputation against the Managers of revenge.

* The libel referred to is "Observations on the Report of the Committee appointed to report the Causes of the Delay in the Trial of Warren Hastings, Esq." Printed for Debrett, 1794.

28 May 1794. an end to that accusation? Why, my Lords, because we would be thought to know our duty, and because we would have all the world know we are resolved to perform it. The Commons of Great Britain are not disposed to quarrel with the Divine wisdom and goodness that has moulded up revenge into the form and constitution of man. He that has made us what we are has made us at once resentful and reasonable. Instinct tells a man that he ought to revenge his wrong; reason tells him that he ought not to be judge in his own cause. From that moment, revenge passes from the private to the public hand; but in being transferred it is far from extinguished. My Lords, it is transferred into the hand that, feeling as he feels, is in a condition to reason better than he reasons. My Lords, the danger is that revenge in the private hand should be carried too far—beyond the bounds of moderation and justice. That is the danger, when revenge is in the hands of the original proprietor. But when revenge is in the hands of a trustee and delegate of justice, the danger is that he will not feel enough upon such an occasion; that he will be cold and languid in it. Therefore, those who are properly taught, who are taught as they ought to be, tremble at the first emotion of anger and revenge in their own minds for their own [wrongs]; but they are taught to give the loosest rein that is possible to every symptom of anger, of revenge and indignation, in that secondary way, whenever their parents, their friends, their country, or their brethren of the common community of mankind, are attacked. These are the sentiments of the Commons of Great Britain.

Its action in the cases of private and public wrongs.

Lord Bacon, as I said just now, has very well said that "revenge is a kind of wild justice." And without that wild and austere stock you could have no justice at all. But when a mitigated stock, but of a high nature and quality, is grafted upon it, then it submits to culture, then it yields all the charming fruits of justice, then it bears fruits and flowers, sweet to the world and grateful to society. [The fruit of] * that wild stock is revenge, regulated but not extinguished—transferred from the suffering party to the communion and sympathy of mankind. This is the revenge which we feel, and which we would be sorry that all the false, idle, girlish, novel-like, morality of the world should extinguish in the breasts of us, who have a great public trust to maintain.

Lord Bacon's definition of revenge.

Motives by which the Commons are actuated.

This sympathetic revenge, which is condemned by these

* Revised copy.

people with all its concomitants—the act and the language—has hitherto been considered so far from a vice that it has been regarded as the test of heroic virtues: and the Commons of Great Britain will cultivate every one of them. And do your Lordships really think that for twenty-two years we should have borne what we have borne, that we should have exposed ourselves to what we have exposed ourselves, that we should have suffered so many labours, and that we should —what is ten times worse to an ingenuous mind—be exposed to all the poisoned fangs and hissing tongues of hydra calumny, that we should be resolved to be in that fire so many years, unless warmed with some strong, generous, perennial, fire, which burns in the temple of nature against the very crimes which attack that nature, and whose rights we are bound to maintain? Accordingly, we declare we shall never relax, but continue to prosecute such crimes and criminals by every vehemence of language and every vehement act, until the proud heads of haughtiness, disdain, tyranny and corruption, are trampled under the feet of your Lordships' justice. We call upon your Lordships to join us in this. We have no doubt you will join us in this; that you will feel the same sympathy that we feel. But if not, here, in this place, in the presence of this House, in the presence of this auditory, in the presence of this country, in the presence of my Creator, I, for myself and for others, make this deliberate determination, I nuncupate this solemn and serious vow—that we do glow with an immortal hatred against all this corruption. And I am sure, if—what heart cannot bear to think nor mouth to utter—your Lordships will not join with us, methods will be taken that must roll every one who identifies himself with such crimes, by declaring that they are no crimes at all, in the filth and pollution of Indian guilt, from generation to generation. Let those who act with me upon this occasion join with me in this vow; if not, I have it all to myself. 28 May 1794.

My Lords, I have now said what I think it necessary to say, to instruct the public not to defend ourselves; to instruct the public upon the principles which have made the House of Commons persevere with a generous warmth, with a feeling sympathy, in this business, and to use the language of indignation which nature prompts, when great crimes are before them, when they are felt as they ought to be in such a case. Having said this, I shall say no more upon that part of the demeanour, except that we are supposed to have used

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Case of Sir Walter Raleigh.

language such as has been used to Sir Walter Raleigh, when he was called, not by the Commons, but by a certain person of a learned profession, "a spider of hell." My Lords, Sir Walter Raleigh was a great soldier, a great mariner, and one of the first scholars of his age. To call him a spider of hell, was a thing, not only indecent in itself, but perfectly foolish, perfectly inapplicable, and fit only for the pedantic eloquence of the person who used it. But if Sir Walter Raleigh was a person who had used an infinite deal of fraud and prevarication, if he had picked [up other men's]* money, privately and clandestinely, wherever he found it, if he had covered it by false bonds, and afterwards attempted to cover it by all the cobwebs of the law—if that had been the character of Sir Walter Raleigh, my Lord Coke would have trespassed a great deal more against decorum than against the propriety of similitude and metaphor, if he had called Sir Walter Raleigh a spider of hell. We use no such language. The language we use is high criminatory language, which we prove the criminal at your bar to deserve, and that is all.

Charge against the Managers of delay.

I am to state his other recriminatory charge against us, which is delay. Of this I have only to say, that the business before you is of immense magnitude. The prisoner himself says, that all the acts of his life are committed in it. With a sense of the magnitude of that business, we knew that it could not be short to us, nor short to your Lordships. But when we are called, as we have been daily called, to sympathise with the prisoner upon that delay, my Lords, we must tell you that we have no sympathy with him at all. Rejecting, as we did before, all false, spurious and hypocritical, virtues, we hold it the greatest of all crimes to bestow upon the oppressors that pity which belongs to the persons that are oppressed. People that are oppressed, people that are wronged, people that are robbed, people that are despoiled, have no other remedy but the sympathies of mankind; and when these sympathies are suffered to be debauched, when they are carried from the sufferer to the person that injures, then we commit a robbery still greater than the robbery that is committed by the other person. We do think this process is too long. We lament it in every sense in which it can be lamented. But we lament that the Begums were so long without having a just punishment [inflicted upon their spoiler].* We lament that

* Revised copy.

Cheyt Sing has been so long a wanderer, without the man who has driven him from his dominions being punished. We are sorry that Nobkissin is so long as fourteen years cheated out of his money. These are our sympathies.

But there are matters of fact charged here. I am to put your Lordships in mind of it, and I mention it with a desire and claim that your Lordships will look into it. On the 9th of February 1789, after complaining in the manner in which the prisoner complains, he proceeds—I will save your Lordships' time and our own time, by not making observations on anything but what comes directly to the particular fact in this petition—he states in this, that a great number of his witnesses were obliged to go to India, by which he lost the benefit of their testimony; that a great number of your Lordships' body were dead, by which he lost the benefit of your judgment. As to the hand of God, if a plague was to sweep away, as it might sweep—as it does—without discrimination and distinction, many of your Lordships, the body always remains entire; the evidence before you is the same, and the judgment is the same.

Departure from England of witnesses for the Defence.

Deaths of peers during the progress of the trial.

But, with regard to his witnesses, I must beg to remind your Lordships of one extraordinary fact. This prisoner has sent to India and has obtained, not testimonies, but testimonials concerning his general good behaviour; and yet he has never once applied to any one man in India, by commission or otherwise, to falsify any one fact that is charged upon him;—not one! And I beg your Lordships to look at the testimonials—to observe that his trial began in 1788 and has continued to this time; and, during all that period, in which he complains of want of witnesses, he has not attempted to supply it by the testimony of any one man in India; but, instead of testimonies to facts, he calls for certificates to his character; and, therefore, that part of his petition stating this wrong and injury which he suffers on the part of the Commons of Great Britain is totally false and groundless; for if he had any such witnesses to examine, he could not have failed to examine them. If he had desired a commission to examine them, a commission would have been granted. If, without any commission, he had brought any affidavit or regularly recorded testimony, the Commons of Great Britain would never have rejected it, even though they could not have cross-examined it.

Omission on the part of Mr. Hastings to apply for evidence from India.

Another complaint is, that many of his witnesses he could not use at the time. We were willing that any of his witnesses should be examined at any time most convenient

Readiness on the part of the Managers to facilitate

28 MAY 1794. to himself. We heard an account that Colonel Polio had stayed till the day when he was to have been examined, and was then gone. The Commons have not hindered the prisoner from having his testimony; and no delay in the trial has hindered him from producing such witnesses. If many of the witnesses are gone to India during the course of this trial, many are returned. Mr. Larkins returned. Was he willing to examine him? No; and it was nothing but downright shame, and the presumptions which he knew would be drawn against him if he did not call him, that induced him to examine him at last. We have had him; we have seen all his witnesses; we know what they have done; and he has not, down to this very hour, put his hand upon one of them whom he thought a proper and essential witness to the facts, or any part of his cause, that has been denied him. Nor has he stated that such a man, if he was here, would prove such a point. No; not one word of any such thing!

the examination of witnesses.

Mr. Hastings' reluctance to examine Mr. Larkins.

There is another case, which was touched by my honourable fellow Manager yesterday. Mr. Belli, his confidential secretary, was agent and contractor for stores; which raised a suspicion that the contracts were held for himself. He during the whole time was here, and six weeks after we had closed our evidence. When we had no longer the settlement and order of witnesses, and when he might have called them, had he pleased, with a full knowledge of these circumstances, that witness did he suffer—if he did not encourage and spirit off—to go to India. This is to the damage which he has suffered by the want of witnesses, through the protraction of this trial.

His omission to produce Mr. Belli.

But the great and serious one is this,—

> "That the petitioner was therefore under the necessity, through his Counsel and solicitors"—

and I beg your Lordships to attend to this; it has been before you, and your Lordships will be so good as to inquire strictly into the truth of it, for it is a very extraordinary business indeed—

Alleged expenditure of 30,000l. upon the defence.

> "that the petitioner was under the necessity, through his Counsel and solicitors, of collecting and collating, from the voluminous records of the Company, the whole history of his public life, in order to form a complete defence to every allegation which the honourable House of Commons has preferred against him. And that he has expended upwards of 30,000*l.* in preparing the materials of his defence." *

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* Petition of Mr. Hastings to the House of Lords, presented at the commencement of the Session of 1789. See "History of the Trial," Part v., p. 90.

My Lords, this charge of 30,000*l.* has properly in itself nothing to do with the delay; because he states he incurred a loss of 30,000*l.* merely in collecting and collating materials, previous to his defence before your Lordships. If so, he gives it to you as a rule and an estimate by which you may judge of his sufferings ever since; and therefore, if you take the rule of three, and put the occasions and the time, and then compare them with the 30,000*l.* which he had incurred previous to the trial, your Lordships must judge that such a monstrous load of expense, that such a monstrous load of oppression, has been laid upon him by our supposed criminal delay as, I believe, there is no man living can stand up to answer. 28 May 1794.

But, my Lords, I am to tell your Lordships some facts, upon which we desire that you will inquire. This business is not in our hands, to make good by the way of a charge to your Lordships. It is a document upon your own records, in your own journals; a complaint of the prisoner complaining bitterly of the House of Commons, and indeed of the whole judicature of the country, into which your Lordships will do well to examine.

When we first came to have knowledge of this petition, which was not for some time, I happened to have conversation with a noble Lord. I think I am not irregular in mentioning his name; I do not know whether he is in his place in the House or not. When I name Lord Suffolk, I name a noble Lord whom honour, justice, veracity, and every virtue that distinguishes the man and the Peer, would claim for his own. My Lord Suffolk told me that he had, in a conversation with Lord Dover, now deceased—a great loss, no doubt, the nation has had in that worthy and respectable Peer—told Lord Dover that he was astonished, that, when there was a complaint made in the House of the enormity of the expense, which at that time had amounted to but 14,000*l.*, and when it was known that the expense of the prosecutor is always greater than that of the defendant, and all public proceedings are carried on at a greater charge than private, he was utterly amazed and astonished at that petition. Lord Dover said, that, before he could present that petition, he felt exactly in the same manner; but that Mr. Hastings, or a person who presented himself on the part of Mr. Hastings—I cannot tell which—had told Lord Dover that he might judge of it by this, that it had cost him 6,000*l.* only in copying clerks, in the India House. When

Particulars communicated by Lord Suffolk.

Alleged payment of 6,000*l.* to the

28 May 1794. this was told to my Lord Dover he was satisfied, and he presented the petition, which otherwise he had doubts, on account of the enormity of the allegation, of presenting to your Lordships.

clerks in the India House.

When Lord Suffolk did me the honour to inform me of this particular, with a good deal of surprise and astonishment, it was some time before I had leisure to go down to the India House, to inquire concerning it. I called upon the secretary, to know what sums he had got for his services upon this occasion; for that we had given him, not a reward equal to his services, but still we had given him something handsome;—"not one shilling!" Had Mr. Hudson, whom you have seen at your bar, anything? He said, he would send for him. Mr. Hudson had received nothing. The clerks informed me, that the court of Directors had ordered that every paper that Mr. Hastings wanted should be copied for him gratuitously; and that, if any additional clerks were wanting for the additional and effectual service of that work, they would pay for any additional clerks that he employed. Then, hearing this account of 6,000*l.* laid out in clerks, with an account that the court of Directors had charged themselves with the whole burthen of that service, I next inquired what expedition money might have been given to the clerks. We know it is usual to do so. Mr. Hudson told me, that, at various times, they had received in little driblets the amount of 95*l.*, or thereabouts. And, when this petition was presented to your Lordships, and when I inquired of it, which was at least half a year after, I think, but I cannot be quite positive to the time—when I inquired into this petition, in that way things stood. It had not cost him anything, except those paltry sums I mentioned. The whole story of the 6,000*l.* was absolutely false. Whatever he may have paid since, there was not one word of truth in it at that time. Why do we bring this to you? For your Lordships to know whether you are abused by false allegations. The thing that is stated here is impossible to be true. Upon the best inquiry, I found it absolutely false; and I dare appeal to the testimony of that noble Lord who is now living, from the account he received from the other noble Lord, whether or no such a thing is possible.

Falsehood of the statement.

There are many other circumstances of fraud and falsehood attending this petition;—we must call things by their names;—there are many circumstances of fraud and falsehood. It is impossible that, at the time of presenting this

petition, there should have been one word of truth in it. We know it; and if it is otherwise, your Lordships will inquire into it, and you will not suffer the House of Commons nor your justice, which is much involved in it, [to be deceived]. You will know whether this man was oppressed by the necessities of a charge of 30,000*l.*, previous to the beginning of this trial, and only in the preparation of materials for it. All I can say is, that we understand there is an ambiguous word here; that is, that he is "engaged" for the payment of it. We asked the clerks at the India House whether he had given them any bond, note, security or promise, for any payment. They assured us, and they will be ready to assure your Lordships, when you come to inquire into this—which, before you give judgment, we desire and claim that you should—they said, they never received promise, note, bond or security, for payment, any more than the rest. All is concealment, all mystery, on his side: all is openness, all is direct, with us. We wish everything that is concealed should be brought to light.

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Ambiguity in the wording.

Upon this charge of oppression, upon which he has rested, [and of an attempt]* to ruin his fortune, your Lordships see that he has not been, in fact, either then or for a long time after, one shilling out of pocket. But some other person had become security to his attorney for him. What shall we think of these men of business, what shall we think of the friends of Mr. Hastings, who, when he has nothing at all [are contented to become responsible for]* 30,000*l.*—perhaps out of the bullock contracts—30,000*l.* for maintaining this suit previous to the beginning of the trial; and consequently must be so for every article of expense that has followed it from that time to this?

Security for the expense of the defence provided by the friends of Mr. Hastings.

This we thought it necessary to say with regard to that part of the recriminatory charge of delay. With respect to the other part of the delay, we are at present under an account to our constituents upon that subject, which we shall give. We shall not give anything further to your Lordships. But the means belong to us as well as to you to remove all these charges. [Your Lordships may]* inquire upon oath, as we have done in our committee, into all the circumstances of this allegation; and I hope your Lordships will give the Commons some means of attending and assisting at this most momentous and important inquiry.

Further reply declined by the Managers.

* Revised copy.

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Alleged introduction of irrelevant matter into the Charge.

The next article of this recriminatory charge upon us is, that we have brought a great deal of irrelative matter, merely to throw an odium upon him, and which could not be proved regularly in the course of the examination; and particularly in the opening [speech] I had the honour of making upon the subject.

Your Lordships know very well that we stated in our Charge to you that great abuses had prevailed in India; we stated that the Company had entered into that covenant upon those abuses; we stated that an Act of Parliament was made upon those abuses; we stated Mr. Hastings' continuance of them. Nothing could be more regular, more proper and more pertinent, than for us to justify the covenants of the Company and the Act [made] upon the abuses which existed in India. Therefore we went through these abuses; we stated them; and were ready to prove every material word, syllable and article, in them. Whether they were relevant or irrelevant to the prisoner, we cared nothing. We were to make out from the records of the House—which records I have here before me, whenever I am called upon for them—all these articles of abuse and grievance; and we there stated [them] as a ground for the Company's provisions with regard to the covenants of their servants, and with regard to the Act of Parliament, which your Lordships passed as well as we did. We went through all these articles and reduced them into two:—violence to the country powers, and corruption, obtained for every act of kindness that was done to them; and we found, undoubtedly and unquestionably, the prisoner's name in every part of them. They say that they were irrelevant to the Charge. We did not make them as matter of charge; but they were not irrelevant to the proof of the preamble of our Charge, which is perfectly relevant in all its parts. That they are perfectly true, we vouch the House of Commons; we vouch the persons that are concerned in those things themselves. When they tell oriental tales relative to flashes of lightning, three seals, and Arabic authors, we quote the very parties themselves, giving the account of themselves and their own conduct to a Committee of the House of Commons.

Relevancy of the matter to the preamble of the Charge.

Petition presented to the Lords.

Your Lordships will remember that a right reverend prelate, who cannot be named without every mark of respect and attention to him, conveyed a petition upon the subject of one of those gentlemen concerned in that narrative to this

House. We could not be answerable to this House. Your Lordships could not make us answerable. There the petition lay. But we are answerable to our own House. We are answerable to our own honour. We are answerable to the Commons of Great Britain, for whatever we asserted in their name. Accordingly, General Burgoyne, then a member of this Committee of Managers, and myself went down into the House of Commons. We there restated the whole affair. We desired that an inquiry should be made into it; if the parties wished to make such an inquiry, we were open for it. They never desired such inquiry, from that day to this. Whenever he or they who are criminated, not by us, but in this volume of Reports that is in my hand, desire it, the House will give them all the satisfaction that is possible upon that subject.

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Readiness of the Commons to grant an inquiry.

Another complaint was made to the House of Commons by the prisoner, that matters irrelevant were charged upon him and were brought up hither. Thus was it not open to him,— has he had no friends in the House of Commons to call upon the House, during that whole period of time, to examine into these particulars which are made the justification of the preamble of the Charge against Mr. Hastings; justifying the the covenants of the Company; justifying the Act of Parliament? It was in their power to do it: it is in their power still. And, if they bring it to that tribunal to which I and my fellow Managers are alone accountable, we will bring to that tribunal such matters as will sufficiently justify us in giving the reasons the House of Commons gave for the Acts which they made and the resolutions which they came to.

Petition addressed by Mr. Hastings to the House of Commons.

This is what I have to say upon that. I will not enter into the particulars of it, because it cannot be entered into by your Lordships any further than this:—if you call upon us, or if we had ever been called upon, to prove the allegations that we did make, not in the nature of a recriminatory charge, but bound in our duty and justice to this Court and to ourselves, we should have entered into the proof of them. We are—were ready: we offered it.

There was another complaint in the same paper which did not go to the words of the preamble, but to an allegation in the Charge, which is concerning abuses in the revenue and the ill consequences which arose from them. And that is a business of horror, which nobody can mention without horror; namely, the abuses in Rungpore and Dinagepore, during the government of Mr. Hastings, which we attempted to bring home to him. What did Mr. Hastings do in such a case? Did

His complaint of the allegation concerning abuses in the revenue.

28 MAY 1794. he endeavour to bring them forward? Every one knows that every irregularity is cured by consent; that he has objected to witnesses; that your Lordships have allowed this objection to witnesses; and yet that your Lordships have received these witnesses again upon a consent which he had refused before. Why did he not consent then to its being examined into here? "No; it would be of the greatest use to me and the world that they should be examined into, but I, who am the guardian of my own honour and my own interests, by the rules and orders of this House will not suffer you to do it." You are the guardians of your own rules and orders: we are the guardians of our own honour in the evidence we produce to you. But they who do not defend themselves, who suffer themselves, as they say, to be cruelly criminated by unjust accusation, and yet will not permit the evidence—it is they who are guilty of all that irrelevant matter, and not we, who have never offered any matter here whatever which we did not declare our readiness upon the spot to prove. Your Lordships, therefore, did not receive that proof. We do not censure your Lordships for it; that is not the business of this day. We use it to show that this imputation, which is thrown upon us by this strange demeanour of the prisoner, of oppressing him by length of time and irrelevant matter [is false]; that the oppression rests upon him; it is his own.

His refusal to permit an examination into the charge.

Well, but they might have complained to the House of Commons. They did so. Have they pursued the complaint? No, they have not; and therefore it is with injustice that this prisoner and these gentlemen, his learned Counsel, dare to complain of us upon such an occasion. I wish your Lordships to conceive that whatever they are—whether innocent in the parties, whether atrocious in their nature and not referrible to him, we were always here ready to prove the truth of the facts, their relevancy, and their applicability to him. We are always ready to prove it. It is not admitted; and therefore, without blaming your Lordships who did not admit it, we throw it directly upon him who complains that his private character suffers without the means of defending it, when he would not suffer those means to be taken. Then, having gone through [this part of]* his recriminatory charges, with regard to our ingratitude and our perfidy, we shall speak of that when we come to speak of his set off of services.

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* Revised copy.

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After having spoken of his demeanour and his proceeding, we shall now speak, if you please, with regard to the principles of his defence. And here we must observe, that, either by confession or conviction, we are at least possessed of the facts and perfectly agreed upon the matter between us, and the fact is no longer in issue between us. An issue of crime and an issue of law are the true issues which your Lordships are to try. And, my Lords, therefore it is necessary for me, who am not going over a particular ground, but taking a view of the laws upon which you are to judge, to state to you upon what principles of law the House of Commons have criminated him, and upon what principles of law, or pretended law, he justifies himself:—for that is the issue between us; the matter of fact being agreed upon, either by confession on his part or proof on ours.

Issues to be tried.

Then, what have we to say upon this business? We do assert that Mr. Hastings went into India under a law and under a discretion. We contend that, when he acted according to discretion, he was bound to act according to the solid, known, established, rules of political morality, humanity and equity; that when he acted under a law—as I contend that he did act under a law—with regard to all foreign powers, he was obliged to act under the law of nature and under the law of nations, as it is recognised by the best and the wisest authorities upon public jurisprudence; that, when he acted under the law with regard to his relation to this country, he was obliged to act according to the laws, statutes and Acts of Parliament, of Great Britain, either in their letter or in their spirit. We affirm next, with regard to his relation to the people of that country, that he was obliged to act according to the laws, rights, usages, institutions and good customs, according to the largest and most liberal construction of them; lastly, that he was obliged to act [in subordination to] and to yield obedience to the court of Directors.

Principles of the arraignment.

It is upon these rules and principles that the Commons contend that Mr. Hastings ought to have regulated his government; and not only Mr. Hastings, but all governors; that upon these rules and these rules only he is responsible; and that upon these rules and these rules only your Lordships are to judge.

My Lords, we do not come here to abandon any of these. We had come, as I told your Lordships, to forty-five reso-

The forty-five resolutions.

28 May 1794. lutions, every one criminatory of this man, long before this impeachment, and every one of them bottomed upon those principles that I have stated. We never will nor can abandon them; and therefore do not supplicate, but claim and demand of right, that your Lordships will judge him upon those principles and upon no others. Now, having stated the principles of the Commons upon which we hold him responsible, and shall hold all governors responsible—the grounds of our impeachment, and which must be the grounds of your judgment—and your Lordships will not suffer any other ground to be mentioned to you—we will tell you what the grounds of his defence are.

Principles of the defence.

Arrogation on the part of Mr. Hastings of arbitrary power.

The first ground is, that he is possessed of an arbitrary and despotic power, bound by no laws whatever but his own will; that the rights of the people are nothing, and that the rights of the Government are everything; that he represents that Government in which the rights of the people are nothing and the rights of the Government everything; that the people of India have no laws, no inheritances, no fixed property, no descendable property, no ranks or subordinations in society, no sense of honour or of shame, and that they are only affected by punishment so far as punishment is a corporal infliction; but what makes the difference of the punishment between man and beast is a thing of which they are totally insensible. These are the principles which Mr. Hastings has laid down in all their extent. He has laid down, too, that when he is to follow examples, the examples he is to follow are Aliverdy Khan, Cossim Ali Khan, and Suja-ud-Dowla. These are the principles which he has produced. Where has he produced them? He has produced them in this Hall, through a long series of ages the temple of law and justice, and the repressor and destroyer of arbitrary power! He has produced them before the House of Commons, in trust of the rights, laws and liberties, of the people! He has produced them before the House of Lords—the House of Lords, co-ordinate with us in this respect, and bound by a double duty, if possible, as guardians of the law that the words "arbitrary power" shall not be mentioned to your Lordships!—For I am not to tell your Lordships that arbitrary power is treason in the law; that they are words of contradiction, and cannot hold for a moment. Now hear:—

Quotation from the Defence.

"The sovereignty which they assumed"—meaning the others—"it fell to my lot, very unexpectedly, to exert; and whether or not such power,

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or powers of that nature, were delegated to me by any provisions of any Act of Parliament I confess myself too little a lawyer to pronounce. I only know that the acceptance of the sovereignty of Benares, etc., is not acknowledged or admitted by any Act of Parliament; and yet, by the particular interference of the majority of the Council, the Company is clearly and indisputably seized of that sovereignty. If, therefore, the sovereignty of Benares as ceded to us by the Vizier have any rights whatever annexed it, and be not a mere empty word without meaning, those rights must be such as are held, countenanced and established, by the law, customs and usages, of the Mogul Empire, and not by the provision of any British Act of Parliament hitherto enacted. Those rights, and none other, I have been the involuntary instrument of enforcing. And if any future Act of Parliament shall positively, or by implication, tend to annihilate those very rights, or their exertion as I have exerted them, I much fear that the boasted sovereignty of Benares, which was held up as an acquisition, almost obtruded upon the Company against my consent and opinion,—for I acknowledge that even then I foresaw many difficulties and inconveniences in its future exertion,—I fear, I say, that this sovereignty will be found a burthen instead of a benefit, a heavy clog rather than a precious gem to its present possessors. I mean, unless the whole of our territory in that quarter shall be rounded and made a uniform compact body by one grand and systematic arrangement, such an arrangement as shall do away all the mischiefs, doubts, and inconveniences—both to the governors and the governed—arising from the variety of tenures, rights and claims, in all cases of landed property and feudal jurisdiction in India, from the informality, invalidity, and instability of all engagements in so divided and unsettled a state of society; and from the unavoidable anarchy and confusion of different laws, religions and prejudices, moral, civil and political, all jumbled together in one unnatural and discordant mass. Every part of Hindostan has been constantly exposed to these and similar disadvantages ever since the Mahomedan conquests. The Hindoos, who never incorporated with their conquerors, were kept in order only by the strong hand of power. The constant necessity of similar exertions would increase at once their energy and extent, so that rebellion itself is the parent and promoter of despotism. Sovereignty in India implies nothing else: for I know not how we can form an estimate of its powers but from its visible effects, and these are everywhere the same, from Cabool to Assam. The whole history of Asia is nothing more than precedents to prove the invariable exercise of arbitrary power. To all this I strongly alluded in the minutes I delivered in Council, when the treaty with the new Vizier was on foot in 1775; and I wished to make Cheit Sing independent, because in India dependence included a thousand evils, many of which I enumerated at that time, and they are entered in the ninth clause of the first section of this Charge. I knew the powers with which an Indian sovereignty is armed, and the dangers to which tributaries are exposed. I knew that, from the history of Asia and from the very nature of mankind, the subjects of a despotic empire are always vigilant for the moment to rebel, and the sovereign is ever jealous of rebellious intentions. A zemindar is an Indian subject, and as such exposed to the common lot of his fellows. The mean and depraved state of a mere zemindar is, therefore, this very dependence above mentioned on a despotic government, this very proneness to shake off his allegiance, and this very exposure to continual danger from his sovereign's jealousy, which are consequent on the political state of Hindostanic

Acceptance of the sovereignty of Benares.

Arbitrary nature of sovereign power in India.

Depraved condition of the zamindars.

28 MAY 1794. governments. Bulwant Sing, if he had been, and Cheit Sing, as long as he was, a zemindar, stood exactly in this mean and depraved state by the constitution of his country. I did not make it for him, but would have secured him from it. Those who made him a zemindar entailed upon him the consequences of so mean and depraved a tenure. Ali Verdi Khan and Cossim Ali fined all their zemindars on the necessities of war, and on every pretence either of court necessity or court extravagance."

I wish your Lordships seriously to look upon the whole nature of the principles upon which the prisoner defends himself. First, he appeals to the custom and the usage of the Mogul empire; and the constitution of the empire [is, he says, an arbitrary power. He says,]* that he does not know whether any Act of Parliament bound him not to exercise this arbitrary power; that, if any Act should in future be made, that Act would be mischievous and ruinous to our empire in India. So that he has at once repealed all the preceding Acts; he has annulled by prospect every future Act you can make; and it is not in the power of the Parliament of Great Britain to hinder him exercising this despotic authority. All Asia is by him disfranchised at a stroke. They have no rights, no laws, no liberties. Their state is mean and depraved; they may be fined for any purpose of court extravagance or prodigality, exactly as in the case of Cheyt Sing, not only upon every war, but upon every pretence of war.

Essential illegality of arbitrary power.

This is the state he gives of the people subject to the British Government in India. We deny that the Act of Parliament gave him any such power. We deny that the India Company ever did give him any such power: we deny that they had any such power to give. We deny that any person—that all the human race—has a power to dissolve any state, and make the government dependent upon his will. We disclaim it: we reject it with disdain and indignation; and we have brought it up here to your Lordships to be tried.

What must be the condition of the people of India who are governed by persons who maintain these as principles, who maintain these as maxims of government, and not as occasional deviations caused by the irregular will of man, but as principles by which the whole is controlled—not by law, reason or justice, but controlled by the will alone? And the whole laws, rights, usages, and the very being of

* Revised copy.

the people, are exposed to this ruin; for Mr. Hastings says, that they may be fined; that they may be exiled; that they may be imprisoned; that their lives themselves depend upon the mere will of their sovereign master; and that he exercises under this country that will. Remark, my Lords, upon this doctrine here:—"I would have kept Cheyt Sing from it." How? "by not being subject to our Government at all, but by making him totally independent. But, the moment he came into dependence upon the British Government, all these evils attached immediately upon him. It is disagreeable to me to exert them, but I know they must be exerted. I declare there is no security from this arbitrary power but by having nothing to do with the British Government." 28 May 1794.

The House of Commons considered what might be the state of this country, when the persons who came from that school of pride, insolence, corruption and tyranny, came to mix themselves with the pure morals of this country;—that nothing but contamination, that nothing but corruption, unless we expunge this out of their very hearts and souls, can possibly exist in this country. It is not those criminals, those robbers that I say he is at the head of the gang of, but every man in Great Britain will be corrupted and must be contaminated, if you let out whole legions of people, generation after generation, tainted with those abominable vices. Therefore, for the integrity and honour of the Commons of Great Britain, we have brought this man here before you.

Contaminating nature of Mr. Hastings' principles.

There was, when this matter was explained and strongly pressed by abilities greater than I can exert—there was something like compunction shown in the prisoner; and he took the strangest way to get rid of this; which was, that, upon the cross examination we were carrying on of Major Scott, he discovered all the engines of this Indian corruption. He got him to swear that this work was not his, but that it was the work of a whole council, composed of Mr. Middleton, Mr. Shore, Mr. Halhed, Mr. Baber and the whole body of his Indian cabinet council; that this was their work and not his; and that therefore he disclaimed it, and that therefore it would be wrong to press it upon him.

Repudiation of his "Defence" by Mr. Hastings.

Good God, my Lords! what shall we say on this occasion? Take it in this stage of it: he disclaims this work. He had told us, my Lords, that it was his; that he was able to compose it in five days; and accordingly he got five persons

His previous account of its composition.

28 May 1794. to forswear—not we, but he—got persons to forswear his most solemn declarations, to prove the declarations he made in the House of Commons to be so many gross falsehoods. That was the first business with regard to this.

Must not it appear still more alarming, when we find that not only Mr. Hastings, but his whole council observe these things; that Mr. Halhed, who was the person concerned with him—in paying, at least, for the compilation of laws, and helping towards the publication of them—that this should be the very man to whom this very Defence is attributed, in which these horrible doctrines are given; that not only Mr. Hastings, but that these gentlemen in India should hold the same detestable and abominable practices? Was it his, or not? Will any one say that, when an answer is sworn to in Chancery, when an answer is given to an impeachment of the Commons here, or a plea to an indictment, it is drawn by the Defendant's Counsel, and therefore it is not his? Did we not all hear him read it at our bar? Did we not see him hand it to his secretary, a respectable young gentleman, to have it read by his son? Did he not hear it read, from end to end? Did he not desire it himself to be printed;—for it was no act of ours, either the Defence or the printing afterwards? Did he not superintend and revise the press; or did one breath breathe upon it? The whole composition, is it not his own writing or adoption? What is as strong, nay, stronger in some instances, never, till he found it pressed upon him in this House, and that your Lordships began to entertain the same abhorrence of it that we did, did he disclaim it.

His responsibility for its contents.

But mark another stage of the propagation of these horrible principles. After having got a person to forswear them for him, and to prove him to have told falsehoods of the grossest kind to the House of Commons, he again resorted to that Defence. The dog returned to his vomit. After vomiting out this vile bilious stuff of arbitrary power, he gets it forsworn for him in this place; [then] he gets his Counsel to resort to it again, and to show that India had nothing but arbitrary power for its government. For that purpose, he entered into a very long series of quotations, to prove that arbitrary power was the law of Asia. What he contended for was this:—that the people have no laws, no rights, no property, moveable or immoveable, no distinction of ranks, no descent, no feeling; and for that he quoted you these travellers whom I shall mention, [but] whom I do not think fit to [quote] at

His recurrence to the principles of the Defence.

length. He has taken issue upon the proposition that India was the devoted seat of arbitrary power. He then entered into Tamerlane's character. He then said that there was no government by law under Aureng-Zebe. He then cited Terry and Tavernier. Then he came to Montesquieu; he asserting the same, and that the people had no sense of honour, and were only sensible of the whip as it was a corporal pain. Then he stated, that it was a government of misrule, productive of no happiness till subverted by the free government of Britain, namely, the government that Mr. Hastings describes here. 28 MAY 1794.

The thing that most astonished you—I am sure, it astonished the Commons—was, that Mr. Hastings, who was twenty-five years in India, and a great part of that time in offices, as he tells you, of considerable station—that this man, who was near fourteen years in the supreme government of India as President or Governor General, who was in possession of all the records, in possession of all the registers, with the power of consulting all the lawyers, with all the means of information that in that country could be had, should at your bar have recourse to the whole rabble of travellers to prove the nature of his own government, the tenure of the lands that are in it, and the laws, customs and manners, of the people whom he was to govern. Good God! would not one rather have imagined that he came to you to put all these travellers to shame, by the authority of a man who resided in a supreme situation of government?—to set aside all those wild, loose, casual and silly, observations on government? On the contrary, as if he was ignorant of them, as if he knew nothing of India, as if he had dropped from the clouds, he comes and cites the observations of every man who had galloped through the country, capable or incapable of observation, to prove to you the nature of the government and the power that he had to exercise!

Nature of the authorities cited by Mr. Hastings.

My Lords, the Commons of Great Britain will take another mode. We do assert, in direct contradiction to this man, who, instead of proving by the record, takes these modes of proving what he states—we assert the direct contrary to all this. Why do we think it worth our while to establish it? For a most material reason; because your Lordships know, and because the world knows, that, if you go into a country where you suppose mankind in a degraded, servile, state, where there is no one man that can lift up his head above another, where they are a set of vile, miserable,

Importance of a just estimate of the political condition of the people of India.

28 May 1794. slaves, all prostrate and confounded in a common servitude, where they have no descendable lands, no inheritance, nothing that makes man proud in himself, that gives him honour and distinction, those things will take from you that kind of sympathy which naturally attaches you to men feeling like yourselves, that have hereditary dignities to support, as you Peers have, who have lands of inheritance to maintain; you will no longer have that feeling that you ought to have for the sufferings of a people whom use has habituated to such sufferings.

These are the purposes which make it absolutely necessary for me totally to refute every one of these [misrepresentations]. And I hope your Lordships will not think that [in labouring for] the establishment of the rights of the people, to show what the nature and violation of them is—your Lordships will not think the time is lost. I am sure I do not think that my labour is lost in endeavouring to lay them open fully before you; and I do it rather from a strong sense of the evils that have happened from the propagation of these wild, groundless and pernicious, doctrines. A young man goes to that country before he knows anything of his own; but he cherishes in his breast, as I hope every man will, a just and laudable partiality for the laws, liberties, rights and institutions, of his own country. We all do so; and God forbid we should not prefer it to every country in the world! But, if you go to India with an idea of the mean, degraded, state of the people that you are to govern—and that at an immature age—we know it will be according to the ordinary course of human nature that those people whom you despise you will never treat well; that the people who you think have no laws, no rights, you will never treat as people who have laws and rights. And, therefore, that error, for our sake, for your sake, for the sake of the public, and for the sake of all those that shall hereafter go in any station to India, I think it necessary to disprove in every point whatever. I mean to prove the direct contrary of everything he says;—that they have laws; that they have rights; that they have immunities; that they have property moveable and immoveable, descendable property as well as occasional property, and property held for life; and that they have it as well secured to them by the laws of their country as any property is secured in this country; that they feel for honour, not only as much as your Lordships feel for it, and all of us feel for it, but feel for it with a more exquisite and poignant sense

Their laws and rights.

than any people upon earth; that, when punishments are inflicted, it is not the lash they feel but the disgrace they feel; in short, that every word that Montesquieu has taken from idle and inconsiderate travellers is absolutely false. 28 May 1794.

The people of that country are divided into three kinds: —the book I now refer to is Mr. Halhed's translation of the Gentu laws, which I have read with the care that such an extraordinary view of human affairs and human constitutions deserves. The people of India are divided into three kinds. They are divided into original natives of the country who are called Gentus, into the descendants of the Arabians and Persians who are Mohammedans, and the descendants of the Moguls, who having had originally a different religion and a constitution of their own, have blended with the other, namely, the Mohammedans, and all are got together into one law. The first primeval law of that country is the Gentu law. I don't know whether the book is in evidence before your Lordships, but it is as good authority as any book that has been mentioned: it is the Gentu Law: it is published and translated by Mr. Halhed. Mr. Hastings ought to know it, who has instructed his Counsel here to say that the people have no rights, because he took for a while the glory of the compilation; and then he makes Nobkissin pay for it—without his consent indeed—for he charges him with the expenses of this book. This ancient book, probably a compilation of the most ancient laws in the world, has in it the duty of the magistrate and the duty of all ranks of subjects; and I will give up the whole cause if there is in this book, from one end to the other, any sort of arbitrary power claimed or asserted on the part of the magistrate, or a declaration that the people have no right of property. No; it is the direct contrary.

Division of the people of India into three races.

Principles of the Gentu law.

First, the people are divided into classes and ranks, with much more accuracy of distinction than is used in this country, or in any [other] country under heaven. Every class of them is divided into families, [some of whom] are more distinguishable and more honourable than the others; and they have all rights, privileges and immunities, belonging to them. In case even of conquest, no forfeiture is to take place. A brahman's estate can never escheat to the magistrate for any crime or for any want of heirs. It is descended to him for ever, descendable to his heirs, while he has heirs; and when he has no heirs, it belongs to his disciples and those connected with him in the brahmanical caste. But

Division of the people into castes.

Privileges of the brahmans.

28 May 1794. there are more privileges declared, directly contrary to what has been said;—that in no case shall a brahman suffer death; in no case shall the property of a brahman, male or female, be confiscated for crimes or escheat for want of heirs. Then it goes on to other castes, and it gives each their property and distinguishes them with great accuracy of discrimination. Mr. Hastings says, as I have read to your Lordships, that there was no inheritable property. You have only to look at chapter the second, page 27; the title of it is, "Of the Division of Inheritable Property." There it goes through a nicety of pedigree; that—

Title by inheritance.

"When a father, a grandfather, a great grandfather, or any relations of this nature decease or lose their caste, or renounce the world, or are desirous to give up their property, their sons, grandsons, great grandsons, and other natural heirs, may divide and assume their glebe lands, orchards, jewels, corals, clothes, furniture, cattle and birds, and all the estate real and personal."

My Lords, it supposes this kind of property. It regulates it with the nicest accuracy of distinction. It settles the descent of it in every part of it. It nowhere asserts, but the direct contrary, that the magistrate has any power whatever over it. It states that it is the magistrate's duty to preserve it; that he is bound to govern by law; that he must have a council of brahmans to assist him in every material act that he does. There is not even a trace of arbitrary power in it. It goes to the vaisyas, the sudras. It establishes—which is one word for all—inheritance and property in land by establishing a prescription; which prescription does in the very nature of it imply, not only a property, but a continued property and a property derived from that continuance.

My Lords, I will state that one article, to let you see, in a very few words, that they not only have an inheritance, but that the law has established a right of acquiring possession in the property of another by prescription:—

Title by prescription.

"A person who is not a minor,"—a man ceases to be a minor at fifteen years of age—"nor impotent and incapable, nor diseased, nor an idiot, nor so lame as not to have power to walk, nor blind, and who on going before a magistrate is capable of distinguishing and taking up his own concerns, and who has not given to another person power to employ and to use his property,—if in the face of such a person another man applies to his own use, for the space of twenty years, the glebe land, or houses, or orchards of that person, without let or molestation from him, from the twenty-first year the property becomes invested in the person so applying such things to use; and any claim of the first person above mentioned upon such glebe lands or orchards shall by no

means stand good. But if the person before mentioned comes under any of these circumstances herein-before described, his claim in that case shall stand good." 28 May 1794.

That is, that the prescription shall stand good against the claims of all persons who are not disqualified from making these claims. I might, if necessary, show your Lordships that the magistrate is himself subject to the law; that there is a case in which he is fineable; that it establishes rules of evidence; that it establishes rules of pleading, and every one of those things which have been formed to prevent this very arbitrary power, which this prisoner at the bar and his Counsel have dared to assert in the presence of this great assembly of all the bishops, of all the peers, of all the judges of this land, in the sacred temple of justice;—have dared to assert that they have no laws whatever.

My Lords, I recommend the book to your reading. I do not mean to trouble you with more; but your Lordships will find that, so far from the magistrate having any power either to imprison arbitrarily or to fine arbitrarily, the rules of fines are laid down with ten thousand times more exactness than with us. If you find the magistrate has any power to punish them with arbitrary punishment, or to take their lands, etc., then I would admit Mr. Hastings has laid down good, sound, doctrine upon this subject. But here is a book which has in itself, not only good and excellent positive rules, but a system of as enlightened jurisprudence, with regard to the body and substance of it, as perhaps any nation ever possessed; which shows it was composed by men of great, cultivated, understandings. These travellers, absurd as they are in their ground, are not [less] absurd in their reasonings. For when once they lay down there is no property, and that the Government is proprietor of all, they argue inferentially that they have no laws. But, if ever there was a people that seem to have been protected with care, attention and circumspection, from all abuse of arbitrary power, either in judges or magistrates, these are the people that are so protected.

Infliction of penalties.

Protection from arbitrary power.

I will show you that they are so sensible of honour, that the fine and punishment is according to their rank, and that the very authority of the magistrates is according to their rank. It is inheritable rank and inheritable landed property; and consequently, by the ancient laws and constitutions of that empire, this whole doctrine of arbitrary power is grossly unfounded in truth. That the learned Counsel

28 May 1794.

Ignorance of Counsel on the subject.

might be ignorant of it is natural enough. They are concerned in the gainful part of their profession. If they know the laws of their own country, which I dare say they do—I am far from suspecting they do not—it is not to be expected that they know the laws of any other. But it is to be expected that the prisoner ought to know the laws of that country, who cheated Nobkissin of his money to get these laws translated, who has got the credit of this work, and has shifted the payment off himself by fraud and peculation; as is proved, in pages 2206 and 2214, by Mr. Auriol and Mr. Halhed. So that the book is in evidence before your Lordships. All these things are evidence, not to prove the guilt or innocence of any person, but to prove the state of the country, its laws, manners and usages. But I find it has been made and used as evidence already on this trial, by the prisoner. Now the prisoner could not be ignorant of this; and yet the prisoner, with the full knowledge that he must have had upon this subject, unless he is grossly ignorant and thinks of nothing but bullock contracts, which I suspect is pretty much the thing—he cheats others of their money and takes to himself the credit—speaks of the Institutes of [Genghis Khan]; the history of Genghis Khan; of Tamerlane being a proud conqueror and a Tartar.

Principles of Tartar law.

I will show to you that among his people he was far from being an arbitrary monarch. The Tartars had among them a nobility; accordingly, on account of some people coming over to Genghis Khan,

"he declared them tercans, [assigned them a revenue for their maintenance, and exempted them and their children from all taxes, with a power to take first of the plunder that should be gotten in war. He gave them likewise the privilege not to be obliged to divide the booty that they should take with the prince's receivers and officers of the customs. Besides all these privileges, he permitted them to enter into his tent whenever they pleased, without being obliged to ask the leave of any of his officers, and declared them exempt from all punishment, whatever faults they had committed; at least, if it were not proved that they had committed a fault more than nine times. He added to all these favours, that these privileges should continue to the descendants of these two tercans, even to the seventh generation, or, according to the report of some authors, to the ninth]."*

I have shown you that, when they have said that there is no distinction of ranks among these people, there is a distinction of ranks among these Mogul Tartars, from whom

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* "The History of Genghizcan the Great, by the late M. Petis de la Croix, Senior. Translated into English." London, 8vo., 1722, p. 49.

the governing race descended; that they are known by the name of tercans. And if you want to know whether the same privileges are existing to this day, I beg you will read the valuable work of [M. de la Croix], upon the subject of the Tartars, where you will find that there is a nobility continued with more care and fidelity, and genealogies kept with more exactness, than in any part of the world. 28 MAY 1794.

Then who is this Genghis Khan? Genghis Khan.

"Messengers were despatched to the absent khans to acquaint them [with what had been resolved in the great assembly that was held for this purpose. The coronation of this prince was then agreed on. . . . The people ran from all parts to be eye-witnesses of this great ceremony, where the principal actor soon came, accompanied by all the khans, his partizans. He placed himself upon a plain seat, which they had set for him upon an eminence, from whence he harangued the assembly with his usual eloquence. His speech being ended, they placed him upon a black felt carpet, which they had spread on the ground; and the person who was ordered to give the people's voice pronounced to him aloud the people's pleasure, in this manner: First, he told him, that whatever authority or power he had given him was derived from Heaven, and that God would not fail to bless and prosper his designs if he governed his subjects well and justly; but that, on the contrary, he would render him miserable if he abused that power, which the black felt on which he sat did intimate to him. After this remonstrance, seven khans, or princes, lifted him up with a ceremonious air, and bare him him to the throne which was prepared for him in the midst of the assembly." *

This person, who is supposed to have a despotic authority himself, whose subjects are supposed to have no rights, no privileges, is elected to that office; and can be no otherwise than by election. Tamerlane was elected in the same manner. And this Genghis Khan valued himself for improving the laws and institutions of his own country, and being a great legislator. And then there is an account of his calling a great parliament. That parliament is called [couriltay] by the Tartars, and is as much a parliament to all intents and purposes [as our own], and without which the sovereigns could do nothing in those days, and I believe not now, any more than his Majesty, our gracious Sovereign, can do without the Lords and Commons. Only that this sovereign was elected, which I think bad. But that shows that they could not be a people dependent upon the arbitrary will of the prince, when the prince depended upon their will and His laws and institutions.

* "The History of Genghizcan the Great, p. 62.

28 MAY 1794. pleasure for his election. When he had thanked them all,—when he called this great parliament, and thanked them all for all the marks of love and respect they showed, being sensible that the chief duty of a prince is to establish good laws, he declared to them that he thought to add to the ancient laws of the land some new ones, which he desired and commanded they should observe.

These laws we have in this book only imperfectly; but we are told in it, and I believe the fact is so, that a great compilation of laws, called [" Yassa Genghiskan"] is to be found.

> "He forbad under pain of death,"—this is the third law made in that diet of Tartars,—" he forbad under pain of death that any prince, or other person whatever, should ever presume to cause himself to be proclaimed great Can or Emperor, without having first been duly elected by the [Cans, Emirs, and the other Mogul lords], princes lawfully assembled in a general Diet." *

He then establishes the privileges and immunities granted to the tercans, that is, to the nobility and gentry of the country. Then he published most severe ordinances, which form the 22d of the rules, against governors who failed in doing their duty, but principally those who commanded in a far distant country. This prince was in this case, what I hope your Lordships will be, a very severe judge against persons commanding in distant countries. Then this book observes that,—

> "The laws we have recited, and which were doubtless the principal ones, remained in full vigour [during Temugin's reign and his successors; Tamerlain himself, who was born a hundred and eleven years after this Prince, caused them to be observed throughout all his empire; and the Crim Tartars, as well as others, to this day religiously observe them]."

This proves that this man could not establish his laws, whether they were the recognition of ancient laws, or new ones which he suggested himself, without the consent of the assembly of his parliament; that he could not have ascended the throne—and he made it a law for his successors that none could ascend the throne—without being duly elected; that they were to preserve the great in all their immunities, the people in all their rights, liberties, privileges and properties. Now we find him bound by laws; made the creature of his people. We find him, even to places that he had conquered, giving good, wise and salutary, laws. We find him establishing one of his

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* " History of Genghizcan the Great, by M. Petis de Croix," p. 80.

sons in a particular office, namely, conservator of those laws; and he has ordered that these should be observed, not only in his time, but through all posterity; and, accordingly, venerated they are at this time in Asia. Then, if this very Genghis Khan, if Tamerlane, if these princes, did not claim or assume to themselves any such power, what shall you think of this man, so bloated with corruption, so bloated with the insolence of undeserved and unmerited power, declaring that the people have no rights, no property, no laws; and that it were not possible [for him] to be bound by an English Act of Parliament; not respecting the laws and customs of the people, [but declaring] that he was an arbitrary sovereign, that could exact what penalties he pleased from the people, at the expense of liberty, property, and life itself? [Compare this] compound of [pride] and presumption with Genghis Khan, whose conquests were more considerable than Alexander's. God knows we are all but miserable beings in comparison with him. Consider the laws which he made the rule of his conduct, and then consider what is the situation of this man you have here.

28 May 1794.

Contrast afforded by the conduct of Mr. Hastings.

I have before me the Institutes of Tamerlane. I wish to save your Lordships' time, or I could show you, in the life of Tamerlane, which you will find translated by [Major Davy] from the oriental author, that he, violent as his conquests were, bloody as all conquests are, ferocious as a Mohammedan making his crusades for the propagation of religion, violent as [he was] in war, yet, when he had settled, knew [how to govern his unjust acquisitions with equity and moderation].*

The Institutes of Tamerlane.

I have [the Institutes of] Tamerlane in my hand; and if ever there was a person intitled to claim arbitrary power to himself, if any one could justify it by the greatness of his conquests, by the greatness of his personal qualities, by the greatness of his learning and eloquence, it was this Tamerlane, who gave himself, at all times not employed in conquests, to the conversation of learned men, who gave himself to all studies that might accomplish a man. Such a man might, if any, claim arbitrary power. But the very thing that made him great, made him sensible that he was but a man. Even in the midst of all his conquests, his tone was a tone of humility; he spoke of laws as any man must who knew what

His greatness and moderation.

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* Revised copy.

28 May 1794. laws were; and, though he was proud, ferocious and violent, in assuming conquest, I will venture to say no prince ever did publish or declare anything more honourable to himself than this:—

His renunciation of arbitrary power.

He first declared, that the laws were the rule of all his conduct. If they will show me one hint of an assumption of arbitrary power, with regard to this man, in this book, I shall be content to be brought to shame before your Lordships. First, he declares, that the nobility of every country shall be considered as his brethren; that the people shall be considered as his children; that the learned and the darweshes shall be particularly cultivated by them. And, my Lords, what does he value himself upon?—

"That I delivered the oppressed from the hand of the oppressor; and, after proof of the oppression, whether on the property or the person, the decision which I passed between them was agreeable to the sacred law; and I did not cause any one person to suffer for the guilt of another."*

My Lords, I shall go no further than to inform your Lordships that these Institutes of Timur ought to be very well known to Mr. Hastings; that he ought to have known that this prince never claimed an arbitrary power; that his principle was to govern by law; that his principle was to repress the oppressions of his inferior governors; that his principle was to recognise in the nobility the respect due to their rank, to recognise in the people protection, and to recognise the laws throughout. This is a book published by Major Davy, dedicated, I believe, to Mr. Hastings. He was his secretary, an extraordinary good orientalist, and it was revised by Mr. White. I have asked of persons the best conversant with the Arabic and Oriental languages, and they are clear that there are internal testimonies to prove it of that age and that time; and he must be the most miserable of all critics, who, reading this book with attention, does not see that, if it was not written by this very great monarch himself, it was written by some secretary of his, in his court, under his immediate inspection. It shows that there were no particulars, or any writings, relative to his laws and government and manner of proceeding which were not read before him and corrected by him. Therefore, whether this work is his composition, or was written by some person of learning whom he had about him, and through whom he would give to the world a favourable idea of his maxims, manners

* Institutes of Timur, p. 165.

and government, it is as good authority as Mr. Hastings' Defence here, which he has got, as he says, written by other people, but which he recognised. Therefore I say, that none of these conquerors ever claimed such a power as Mr. Hastings claims; that it is not the law of the country; which law of the country never recognised in the country any principles like those which he speaks of. 28 May 1794.

Meaning to go through this matter, without supposing you to be impatient, or without sparing myself in the least, I will go next to the consideration of another law, which will show you the wickedness of these pretensions that the people have no laws or rights. The body of people are Mohammedans. Now Mohammedans are so far from having no laws or rights, that, when you name a Mohammedan, you name a man governed by law, a prince governed by law, a people intitled to protection by law, and by law only. Mr. Hastings has caused to be published—and I am obliged to him for it—a book called the Hedaya. It is true he has taken himself credit for it, but has robbed Nobkissin of the money to pay for it. But the value of the book is not lessened because the man stole it. It is not the less a Bible because a man out of false piety stole it; and this book is not the less a valuable and useful compilation of Mohammedan law, notwithstanding he cheated Nobkissin out of the money to pay for it. When you see this book in my hand, will you believe that a people who have no laws, no right, no property, no honour, could be at the trouble of having so many writers upon the law? There are at least, I am sure, a thousand eminent writers upon law, who have written far more voluminous works than are known in the common law of England; and, I verily believe, more voluminous than the writings of the civilians themselves. That this should be done by a people who have no property is so very ridiculous, that one would think the very assertion was sufficient to refute it. But I shall refute it, and without troubling you a great deal.

The Hedaya.

First, I am to tell you that the Mohammedans are a people governed by law; that law is a matter much studied and cultivated; that they distinguish it into a law called the Kuran, which is the Mohammedan law and its authorised commentaries; into the Fatwa, which is the judicial judgment and reports of adjudged cases; into the Kanun, which is the regulations the emperors made for the sovereign authority in the regulation of their dominions; and lastly, the

Divisions of the Mohammedan law.

28 May 1794. Rawaj-ul-mulk, or custom and usage, the common law of the country, which prevails independently of any of these.

I am first to state to your Lordships that the public treasure does not belong to the prince. So far from any man's property belonging to him, the public treasure does not belong to him, but is declared to be the common property of all Mussulmans. You will see this in the second volume of Hamilton's Hedaya, page 95; but you will find, in many other places, that the public treasure does not belong to the prince, but is declared to be the common property of all Mussulmans. It is said, too, with regard to punishments and chastisements being arbitrary—to show you whether he is a person who is irresponsible :—

Responsibility of the Caliph.

"If the supreme ruler, such as the Caliph for the time being, commit any offence punishable by law, such as whoredom, theft or drunkenness, he is not subject to any punishment; but yet, if he commits murder, he is subject to the law of retaliation, and he is also accountable in matters of property: because punishment is a right of God, the infliction of which is committed to the Caliph, or other supreme magistrate, and none else; and he cannot inflict punishment upon himself, as in this there is no advantage, because the good proposed in punishment is, that it may operate as a warning to deter mankind from sin, and this is not obtained by a person's inflicting punishment upon himself contrary to the rights of the individual, such as the laws of retaliation and of property, the penalties of which may be exacted of the Caliph, as the claimant of right may obtain satisfaction, either by the Caliph empowering him to exact his right from himself, or by the claimant appealing for assistance to the collective body of Mussulmans."*

Here your Lordships see that the Caliph, who is a magistrate of the highest authority that can exist among the Mohammedans, where property or life is concerned, has no arbitrary power, but is responsible, just as much as any other man.

I am now to show your Lordships that he can raise no taxes; because the imposing of a tribute upon a Mussulman without his previous consent is impracticable. And then the next thing which I shall endeavour to show to your Lordships is, who he is. Mr. Hastings has described here what the sovereign is, and what sovereignty is. Says he, "This is sovereignty, and nothing else, all over India." I wish your Lordships to look with attention to page 28 [of the printed Minutes], where you will find what Mr. Hastings' idea of sovereignty is. Then to that I oppose what the Mohammedan law says is the idea of sovereignty—who a

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* Hedaya; vol. ii. p. 34.

sovereign is. It is in a chapter of their laws concerning rebellion. These laws do entirely define it as an act of warfare against the sovereign; and then you are told who the sovereign is: and I beg you to compare it. It is in chapter x., page 247, in the second volume. The title is "Of the laws concerning Rebels;" and then, telling you that rebels are of four descriptions, the author goes on, and says:— 28 May 1794.

Qualities and obligations of the Mohammedan sovereign.

"The word rebellion (*bâghee*) [in its literal sense means prevarication, also injustice and tyranny; in the language of the law it is particularly applied to injustice, namely, withdrawing from obedience to the rightful *Imâm* (as appears in the *Fattahal-Kadeen*). By the rightful *Imâm*, is understood a person in whom all the qualities essential to magistracy are united, such as Islamism, freedom, sanity of intellect, and maturity of age, and who has been elected into his office by any tribe of Mussulmans, with their general consent:—whose view and intention is the advancement of the true religion, and the strengthening of the Mussulmans, and under whom the Mussulmans enjoy security in person and property; one who levies tithe and tribute according to law, who out of the public treasury pays what is due to learned men, preachers, kâzees, mooftis, philosophers, public teachers, and so forth; and who is just in all his dealings with Mussulmans: for whoever does not answer this description is not the right *Imâm;* whence it is not incumbent to support such a one, but rather it is incumbent to oppose him and make war upon him, until such time as he either adopt a proper mode of conduct, or be slain]."*

Now is this a magistrate of the description of Mr. Hastings? He must be elected by the general consent of Mussulmans. He must be a protector of the person and property of his subjects; and a right of resistance is directly established by law against him, and even a duty of resistance. Am I, therefore, praising, in this Mohammedan law, those rules with regard to the election? No; I know what mischiefs have attended it. I know that it has shaken and rendered uncertain the thrones of most of the sovereigns of the Mussulman religion. But I produce it for this—that it is, of all proofs, the clearest proof that such a man cannot be supposed to have an arbitrary power over his subjects, and the command of their property, who elect him their sovereign, and who, if he does not preserve their person and property, have a right to rebel, to resist, and to dethrone him.

His want of title to arbitrary power.

I have gone through what I undertook to prove—that Mr. Hastings, with all his Indian council who have made up this volume and code of arbitrary power, is not supported by the laws of the Moguls, by the laws of the Gentus, by the laws of the Mohammedans; that he is not supported by any

* Hedaya; vol. ii. pp. 247 and 248.

28 May 1794. law custom or usage, whatever, recognised as legal and valid. And what are the examples that he takes? Good God! not the law, not the constitution of Oude, not the practice of a respectable emperor like Akbar—which, if it would not fatigue your Lordships, I would go to show the principles and rules upon which he governed. No; this man in India, at the power and head of an Indian Government, ransacks all the travellers, and he and his learned Counsel here, and his unlearned council, his secret cabinet council who wrote this, they have all established that the people have no rights, no laws, no order, no distinction!

Sensitiveness of the natives of India to disgrace.

I am now to prove to your Lordships that they have an idea of disgrace and dishonour. I beg your Lordships to look at this book, and judge whether you ever saw rank or [sex] more respected in any books than in this. We know there have been facts;—that there have been women tried in India for offences and acquitted, who could not survive the disgrace even of acquittal. We know very well that persons who have been condemned at a court-martial have desired to be blown from the mouth of a cannon, and have [claimed]* rank and precedence. And yet these are the people supposed to have no rights! Good God! that we should be under the necessity of proving, in this place, all these things; [and of disproving]* that all India should have been given in slavery to that man! They say, "we will show you that Genghis Khan, Khouli Khan and Tamerlane, destroyed more people in battle, ten thousand times, than this man did." Good God! have they run mad? Have they lost their senses in their guilt? Did they ever expect that we meant to compare this man to Tamerlane, Genghis Khan, or Khouli Khan? Good God! to compare a clerk at a bureau—to compare a fraudulent bullock contractor—for his first elements, we could show, were in carrying on fraudulent bullock transactions, which contract was taken from him with shame and disgrace, and restored with greater shame and disgrace—to compare him with the conquerors of the world! We never said he was a tiger and a lion. No; we have said he was a weasel and a rat. We have said, he has desolated countries as those plagues have desolated countries; that he, a fraudulent bullock contractor, exalted to great unmerited power, can do more mischief than even all the tigers and lions in the world.

Character of Mr. Hastings compared with that of Genghis Khan and Tamerlane.

* Revised copy.

We know that a swarm of locusts, a despicable insect, can desolate a country more than Genghis Khan or Tamerlane. God almighty! Don't we see, respecting Pharaoh, that when God had a mind to humble his pride and presumption and to bring him to shame, he did not do it with tigers and lions, but he sent them lice, mice and frogs, and everything that was low and contemptible, to pollute and destroy the country. It was a worse scourge of God than all the Tamerlanes, all the tigers and lions, in the world. And think of your listening here to these people giving a long account of Tamerlane's 200,000 people in his camp; of his prisoners that built a pyramid at Bagdad of 90,000 heads; that there were thousands of the people and elephants killed many years ago; that the world is divided into 36,000 years by the Hindus! One fourth of that is fabulous; the other part is of very [in]-different authority; but all that we learn from it is, that there were great wars and confusion. We have not accused Mr. Hastings of being a great general and abusing his powers. We know he is nothing at the best but a creature of the bureau, a bullock contractor, who defrauded and taught others to defraud in that capacity. That we say. We have not accused him of the vices of conquerors. When we see him conquer anything, then we will accuse him of the vices of conquerors. But we have put him into a place much beyond his deserts, and that power he has abused. 28 May 1794.

This Counsel, according to their audacious manner—I suppose they imagine that they are Counsel for Tamerlane, that they are Counsel for Genghis Khan, that they are Counsel for Khouli Khan. Why, we have not them before us. They are persons that it would be a little difficult for your Lordships to call to an account if living, but as they are dead it is foolish to think of them, and ten times more foolish in him to compare himself with such persons; bringing the natural reflection that must occur to every man's mind. Do we compare his crimes with the crimes of Alexander the great, or Julius Cæsar, or Tamerlane, or Genghis Khan? No; but these people have thought proper to accuse the Managers for the Commons, who sensible of the dignity of their place never offer anything to you without reason, of wandering in all the fabulous regions of Indian mythology; as if we were persons of an age, of a disposition, of a character, representative or natural, to wanton, as they call it,—that is, to invent fables—concerning Indian antiquity! That they are not ashamed of saying so, I do not wonder.

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Tyrannical character of the recent governments of India.

I was stating to your Lordships a case which I hope will never be out of your minds, the difference of situation between the country governed by its own original native laws, and what it suffered from the series of usurpers that preceded our government, and the series of tyrants that have succeeded to it—particularly Mr. Hastings. The book that I have quoted is a book of Mr. Halhed's. Instead of "wantoning in fabulous antiquity," the person, I believe, who wrote the book is alive, at Bath. If he is not alive, still he cannot be dead long: the book was published in 1776. It is not so long a period ago as to be called "wantoning in fabulous antiquity." He is a man who understood the state of that country, who had known, and must have known, what he saw: he says:—

Testimony of Mr. Halhed.

"In truth it would be almost cruelty to molest that happy people"—speaking of the people of one of the provinces near Calcutta—"for in this district are the only vestiges of the beauty, purity, piety, regularity, equity and strictness, of the ancient Hindoostan government: here the property as well as the liberty of the people is inviolate."

My Lords, I did not think [this reference] necessary to us: and I hope you will do that justice to the Commons and those who represent them to believe, that, when they state to you any fact, they give it to you upon a good authority, and do not, as persons with their licentious tongues dare to say, "wanton in antiquity." The man, I believe, is alive who wrote it. He writes what he has observed, or pretends to have observed. Mr. Hastings ought to know him, because he is the companion in some of his acts; and he proposed to make certain dreadful alterations which Mr. Hastings has since executed in that country—that of the deposition of Cossim Ali Khan. He was concerned with him in it. He charged him with detaining his bribe from him, and Mr. Hastings answered, he had paid him long ago. How they have settled that bribe transaction between them I know not. But I state this to prove that it is no fabulous history; that, if anybody has told falsely, it is Mr. Hastings' companion and associate in guilt that has said it, and who must have known the country; and, however faulty he was in other respects, he had no interest whatever to make any false representation of it.

If it were necessary, I should go to Scrafton's account of that ancient government. I should prove to you, as I hope I shall yet do, the happy comparative state of that country, even under usurpers who were there. And why do I do

28 May 1794.

this? I wish to reinstate the people in their rights and privileges. I wish to reinstate them in your sympathy. I wish you to respect a people as respectable as yourselves, who know, as well as you, what is rank, what is law, what is property; who know how to feel disgrace, who know what equity, what reason, what proportion in punishments, what security of property is, just as well as any of your Lordships; which they have secured by laws of all their religions, by declarations of all their sovereigns. And what is opposed to it? the practice of usurpers, which Mr. Hastings takes to be his rule and guide. He endeavours to find deviations from it, and then he says by his Counsel, that I have asserted that there is no such thing as arbitrary power in the East! Good God! if I had not known that there was such a thing in the world, Mr. Hastings' conduct might have taught me what was arbitrary power, and all its mischiefs.

High degree of civilisation attained by the people of India.

But I know that there has been arbitrary power; that tyrants have usurped it; and that in some instances the best princes have violated the liberties of the people; and that they have produced rebellions against them often, and by the law have been intitled to be deposed for such deviations. I do not deny that there are robberies on Hounslow Heath; that there are forgeries, conspiracies and rebellions. But I say, that they are against law, against right, and whoever commits them commits illegal acts; and, when a man is to defend himself, that it is not upon the standard of a violation of law that he is to defend himself, but upon the law itself. A man may as well say, "I robbed upon Hounslow Heath: hundreds robbed upon Hounslow Heath before me." To which I answer, the law has prohibited you from robbing there. I will hang you if you rob there, notwithstanding all that line of precedents of the violation of law you have mentioned. No doubt, princes have violated the law of this country; they have suffered for it: nobles have violated the law; their privilege has been taken away: common people have violated the law; they have been hanged for it. I know no people secured from the law. The law is the security of every person that governs, the security of every person that is governed. It is the security of the people of India; it is the security of the people of England. There is but one law in the world, namely, that law which governs all law—the law of our Creator, the law of humanity, justice, equity, the law of nature and of nations. So far as any laws fortify these, give them more precision, more energy, more

Usurpation of arbitrary power.

Sanctity of the law.

28 MAY 1794. effect, by their declarations, these laws enter into the sacredness of the primeval laws: they have them for their sanction. But any man who quotes as precedents the abuses of tyrants and robbers, endeavours to violate the very fountain of justice, and to put an end to law—to remove that only guard which is upon evil men, whether governors or governed, which makes tyrants of the governors and rebels of the people governed. Therefore I hope your Lordships will not think, that, in opening this business, I have done wrong in establishing the people's rights, and in establishing the line we have laid down for the responsibility of Indian governors. Therefore, when he comes to justify himself upon these principles of arbitrary power, we reject them, and hope your Lordships will reject them.

Perhaps your Lordships may think I have troubled you now too long; but I cannot think that the rights, laws and liberties, of a whole people—those at our bar, those at your Lordships' bar, those put upon the records of the House of Commons, those put upon the records of the House of Lords—should be passed over without taking all the pains that I could take, saving myself in no sort, to show you, from every good mode of proceeding, that Mr. Hastings' conduct is not justified by law, but justified only by a violation of law. How he ought to be punished, how he has acted upon those principles, I shall show you another time. Your Lordships will spare my weakness; I have not spared myself. I cannot command, and you cannot give, greater bodily strength than a man has.

CONTINUATION OF THE SPEECH OF THE RT. HON. EDMUND BURKE, MANAGER FOR THE HOUSE OF COMMONS, IN GENERAL REPLY ON THE SEVERAL CHARGES; 30 MAY, 1794.

My Lords.—On the last day of the sitting of this Court, when I had the honour of appearing before you by the order of my fellow Managers, I stated to you their observations and my own upon two great points—one the demeanour of the prisoner at the bar during his trial; the other, the principles of his defence. I stated my Lords that the demeanour was of a nature unknown in the history of this country and in the records of Parliament. I stated to you the demeanour of that long line of great men, the most distinguished in this kingdom, with every mark of prejudice and every distinction of merit, who on account of their offences were brought before your Lordships' justice, and seldom escaped it. I stated to you the humility, the decency, and the propriety of their behaviour. I stated to you, as a contrast on the other side, the demeanour of the prisoner, and his presumption in making a recriminatory charge upon the House of Commons, and answering their impeachment by another impeachment, by accusing them of malice, oppression, and the blackest ingratitude.

30 May 1794. Recapitulation.

My Lords, we stated that, when this came to be particularised, it consisted of two parts, injustice and delay. To the injustice we are to answer by the nature of the Charge that we make before you:—to the delay, my Lords, we have told you that we answer in another place. Into one of the consequences of the delay, the ruinous expense which is charged regularly in a petition by the prisoner before your Lordships, we have desired your Lordships to make an inquiry. We have stated the fact in the petition—have mentioned the witnesses to which we resort; and in that we have endeavoured to remove that part of the charge. With regard to ingratitude, there will come another time, towards the close of this reply, in which, considering the

30 MAY 1794. merits that are intended to be set off against those crimes, we shall consider the nature of those merits, and know how far they are to operate, either, as the prisoner designs they shall operate, in his favour, as presumptive proof that a man of such merits could not be guilty of such crimes; or, as we conceive them to be, as a sort of set-off and mitigation of his offences. In either of these lights we shall consider them. We mentioned the demeanour too, for another reason; that your Lordships may be enabled to estimate, from the proud presumption and audacity of the criminal at your bar, when he stands before the most awful tribunal in the world, accused by the most respectable body in the world, representing no less than the sacred voice of his country, what that man must be when he sits in the seat of pride and power; what his insolence at Calcutta to the natives must be, when, called here to answer for his crimes, he presumes to behave, not with the firmness of innocence, but with the audacity and hardness of guilt.

It is necessary to recall to your recollection the principles of the accusation and of the defence. We stated, that the matters of fact are all either settled by confession or conviction, and that the question now before your Lordships is no longer an issue of fact, but an issue of law. The question is, what degree of merit or demerit you by law are to give to the actions which are here stated before you, and are now agreed between the parties. Then, having established that it is an issue of law, we examined by what law he is to be tried; and we laid down a claim, and as we do know your Lordships will as readily grant it as we can possibly be desirous of claiming it, [we trust] your Lordships will concur with us in a laudable emulation in establishing those truths—that, all power being limited by law, a discretionary power ought to be guided by discretion, and not by arbitrary will; that all discretion must go to the conservation and the good of those over whom it is exercised, and, therefore, must be guided by rules of sound political morality for the advantage of the persons under it;—two things never to be separated.

We put this as a rule of discretionary power;—that, where law is applicable, we contended he was bound by the laws and statutes of this kingdom, as a British subject; and that, whenever he exercises authority in the name of the Company, or in the name of His Majesty, or under any other name or description, he is bound by the laws and statutes of this

kingdom, both in letter and spirit, so far as they are applicable to him and his case; and, above all, that he is bound by the Act to which he owes his appointment. The next that we go upon is,—that he is bound, in all transactions with foreign powers, to act according to the known, recognised, rules of the law of nations, with regard to all powers that are sovereign, or appear to be sovereign, whether dependent or independent. 30 May 1794.

The next point we endeavoured to establish, and we did establish, and which we now call to your Lordships' recollection, is, that he is next bound to proceed according to the laws, rights, laudable institutions, customs, privileges and franchises, of the country that he governs; and we did contend that to such laws, rights, privileges and franchises, the people of the country had a clear and just claim: and, accordingly, this we made the basis of our inquiry.

Then, having laid down these rules with regard to the superior orders, as Mr. Hastings was obliged by the nature of his relation, being a servant to the Company, to be obedient to their orders at all times, as he entered into special covenants with regard to special articles of obedience, we went next to the Act which bound him specially, by a new law, to do that duty which is inherent in his office, and to which he is bound—to obey the orders of the court of Directors. These were our principles: this was one table of the law.

Principles of government avowed by Mr. Hastings.

Now, my Lords, the table of the law which this prisoner has claimed is this;—that he is not bound in the exercise of his power in India. He talks of an Act of Parliament with the last degree of contempt; [speaking of the absolute sovereignty which he would have you believe is exercised by the princes of India, he says :—]*

> "The sovereignty which they assumed it fell to my lot very unexpectedly to exert; and whether or not such power, or powers of that nature, were delegated to me by any provisions of any Act of Parliament, I confess myself too little of a lawyer to pronounce."

And so on. This is the manner in which he treats an Act of Parliament; that is to say, with the last degree of contempt. In the place of that Act of Parliament what does he place? His own arbitrary will! He contends this is the law of the country which he is to govern; that his arbitrary will is his only rule; that, in the examples of the

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* Revised copy.

30 May 1794. exercise of it, he is to follow the arbitrary institutions, as he calls them, of Tamerlane and Genghis Khan;—not the laws of his country, not the laws of the Mohammedans, or the great jurists of the country, but arbitrary institutes, as he calls them, of Genghis Khan and Tamerlane; that his examples are the examples of Aliverdy Khan, Cossim Ali Khan, and Suja Dowla Khan, and of all those khans who have rebelled against their masters, and have desolated the countries which have been subjected to them. These are the laws which he has laid down to himself, and these are the examples which expressly he has told the House of Commons, [as is] in evidence before your Lordships, he is resolved to follow. These, my Lords, without any softening or mitigation, he has prescribed to you as the rule of his conduct. Another rule of his conduct is this:—that, when the Company's affairs were in distress, without considering how that distress arose, and whether it did not arise from his own prodigality and mismanagement or corruption, he has a right, for the Company's benefit, to take privately, under his own name, with a future application in his own breast only, every kind of corrupt present whatever.

The issue to be tried.

My Lords, these are the maxims on one side on which we insist on judging him: these are the maxims on which he insists to defend himself. Therefore the issue before your Lordships is, what law your Lordships shall give upon this occasion; and that is more material than this case, a hundred times. We have shown that every word he has said is false.

Authorities cited by the Managers.

We have produced the institutions of Genghis Khan, which he calls arbitrary. We have produced the institutions of Tamerlane. We have produced the laws as established by the principles of the Mohammedans, which are binding upon every person, from the crowned head to the lowest being that creeps upon the earth, as being supposed to be formed upon the law of God himself; as indeed, so far as it is agreeable to natural law, it is formed upon the law of God himself; and afterwards interwoven with a long series of the wisest, the most learned and most enlightened, jurisprudence that ever was in the whole world.

We have shown to you, and recommended to your reading, passages—we have quoted the whole book—by which will appear the utter falsehood of what he has attempted, first before the House of Commons, and afterwards at your Lordships' bar, to prove;—that the people have no laws, no rights, no usages, no distinction, no sense of honour, no

property; and that they are nothing but a herd of slaves, to be governed by the arbitrary will of a master whose rights are everything and their rights nothing. We took a great deal of trouble on the last day, and it will save us trouble now, to show your Lordships that the direct contrary of this is true. We have shown, if they are to be compared together, that the sovereign is rather nothing, and that the people are everything; as they ought to be, in the true and natural order of things. God forbid that it should trench upon sovereignty and its true, just and lawful, prerogatives! But, on the contrary, it supports and establishes them, that they are all for the people. The sovereign's rights are undoubtedly sacred rights, and ought to be, in that and every country in the world, sacred; because exercised for the benefit of the people, and in subordination to that great end for which God alone has vested power in any man—whether a monarch, whether a body of nobility, whether a popular community, or whatever else it is. This is the law we insist upon, and which is the principle upon which your Lordships are to try him.

30 May 1794.

End and obligations of sovereignty.

We have shown you that these people lived under the law which was formed even whilst we, I may say, were in the forest, before we knew what jurisprudence was; that it was refined, enlightened, curious, elaborate, technical, jurisprudence under which they lived, and by which their property was secured, and which yields neither to the jurisprudence of the Roman law, nor to the jurisprudence of this kingdom; formed and allowed to be, as it is, a basis and substratum to the manners, and customs and opinions, of the people of that country. And we contend, Mr. Hastings is bound to know and to act by these laws; and I shall prove that the very condition upon which he received power in India was, to protect these people in their laws and known rights.

Antiquity and refinement of the Indian codes.

We stated that they ought to be particularly known to Mr. Hastings, because he has made the natives of the country, indeed, through fraud and swindling practices, pay for them. He has got these laws—namely, the Gentu laws, which we had the honour of first mentioning to your Lordships—as he pretended at his own expense, translated for the benefit of the public; and there I confess, among others, I find myself obliged to him. I find that the Mohammedan laws were likewise translated at a considerable

30 May 1794. expense by Mr. Hastings, in which, if he had laid out that money, I should have been obliged to him.

Spurious liberality of Mr. Hastings.

But I find it is very probable that the books were never read by him which were dedicated to him. And your Lordships have it in proof that he did not pay for them; but, pretending to give a bond to Raja Nobkissin for 37,500*l.*, he refused to execute that security, and paid himself out of that money; and by that means obtained a false credit with the public for an act of liberality which he did not perform, for the production of laws for which he forced other people, contrary to all laws, to pay. And this swindling Mæcenas has, among other things, affected the honour and glory of a patron, and, by fraud and cheat, compelled a man to pay for the false glory which he had obtained under false pretences. I must confess, I think that swindling and cheating the Government, and receiving honours under false pretences, is as base a fraud as any that can be practised. Mr. Hastings probably never read those books. I believe his Counsel never read them. But we take the benefit of them: we know and speak after knowledge. I should be sorry to stand in this place, if there was one word and tittle in these books that I had not read over. Remembering that we therefore come and declare to you, that he is not borne out by these books, either in the total spirit of them or in any passage of them, in any one act that he has done. Therefore we claim, that not only our Government and every person exercising authority in Great Britain should be bound by the laws of Great Britain, but that every person exercising authority in any country shall be subject to the laws of that country; or he breaks the very covenant by which we hold our power there.

Obedience to the laws of dependent countries obligatory on British officers.

Having stated this, and having proved that he cannot defend his actions by the laws of Great Britain, nor by the laws of India; showing that these arbitrary institutes, as he states them, of Genghis Khan and Tamerlane, which he quotes, if they had been arbitrary, might belong to conquerors: but he is no conqueror; nothing but what you see him to be, a bad scribbler of absurd papers, in which he can put no two sentences together without contradiction; we knowing him in no other character than that of being a bullock contractor for some years, being fraudulent in that transaction, and afterwards giving fraudulent contracts to others:—and yet I will put it—the first conquerors of the

world would have been base, and abandoned, and wicked, if they had assumed such a right. But it is the glory of all such set of people to have this for their motto:— 30 May 1794.

"Parcere subjectis et debellare superbos."

These were the people that said that they would recompense to the countries which they had got through torrents of blood, through carnage, through slaughter and through violence—that they would recompense them by the justice of their institutions, the mildness of their laws and the equity of their government. If these people had had these arbitrary institutes, which we have proved they had not, but that they disclaimed them in every point, you never would suffer such principles to be urged here. That such examples—one would think they were no examples—examples of a man acting by violence, of a man acting by wrong, examples of a man who has become a rebel to his sovereign in order that he should become a tyrant to his people—that they shall be examples to a British governor, or any governor, we here confidently deny; and insist upon it, that his pretending to follow these examples is itself a crime.

Character of the precedents pleaded by Mr. Hastings.

Your Lordships observe that everything I have said, everything that I have alluded to, is in evidence before you. You know this, because you know that Mr. Hastings pretended to have them translated. You know he took the charge not himself; for it is in evidence before you upon all these Articles, and we know, he afterwards transferred the debt and honour and all to Nobkissin, whom he has never paid, and whose money he desires your Lordships to grant him; and instead of giving him the bond, he desires your Lordships to confirm him in that fraud.

The fraud on Nobkissin.

Having ransacked all Asia for principles of despotism, having ransacked all the bad and corrupt part of it for examples in the exercise of it, to justify himself, because certainly by no other way can he be justified—I have the whole in my hand, and I shall, before I have done, refer your Lordships to the particular parts of the Minutes in which are justified all these cases. Before your Lordships go away, I shall turn you to every part of this that is in evidence; referring last to matter of public notoriety, such as are good printed books and good authorities—then, having cleared this ground, Mr. Hastings, finding no resource in Asia to cover him, nothing in the present existing laws in Great Britain, has had recourse to two other principles: one is the principle of sovereignty. According

30 May 1794. to him, when there is a sovereign power that sovereign power is, in its nature and essence, wherever it [exists], a power of exacting anything from the subject, of disposing of his person and his property; and he is a true, full and perfect, representative of that sovereign power.

Mr. Hastings' theory of sovereign power.

Limited nature of the Company's authority.

First, my Lords, we do positively deny that he, or the Company, is the perfect representative of any sovereign power whatever. They have rights by their charter, and they have no more. They have rights by Act of Parliament, and they have no more. They have those legal rights; and those legal rights imply no such thing. The sovereignty of the country of Great Britain is in the King only: he is the sovereign of the Lords, the sovereign of the Commons, individually and collectively, and the sovereign of the whole people. And [as] he is a sovereign, as he has this prerogative by law, so, as being the greatest of all prerogatives, the sovereign by law must exercise it; and every person claiming and deriving under him, whether by Act of Parliament, whether by charter of the Crown, or by any other way whatever, all are alike bound by law and responsible to it, and cannot assume any power of sovereignty:—

Sovereign power not to be delegated.

First, because the sovereignty is in the Crown and cannot be delegated away from the Crown. Next, that no such delegation ever was given or ever intended; as any one will see by the Act by which Mr. Hastings was nominated Governor. Therefore he cannot exercise that high, supreme, legislative sovereignty which the law attributes, with the consent of both Houses of Parliament, to the King, and to the King only. Therefore it is a violent, rebellious, assumption of power, to say that Mr. Hastings fully, perfectly and entirely, represents the sovereign of this country; and may act with as large and broad a legislative—may act with as large and broad an executive—may act with as large and broad a judicial—power, as His Majesty, acting with the consent of the two Houses of Parliament and agreeably to the laws of this kingdom. It is a traitorous and rebellious assumption which he has no right to make, which he has made, and which we charge [against him, and]* is no justification of his conduct in any respect.

Subordinate position of Suja-ud-Dowla.

He next [alleges] that the Wazir Suja-ud-Dowla was sovereign, with an unlimited power over the life, goods and property, of Cheyt Sing. We positively deny that, what-

* Revised copy.

ever power the supreme sovereign of the empire had, it was delegated to Suja-ud-Dowla. He never had it. He was a Wazir of the empire. He had a grant of certain lands for the support of that dignity; and we refer you to the institutes of Timur, to the institutes of Akbar, to the institutes of the Mohammedan law, for the power of delegates, governors, viceroys. You will find that there is not a trace of sovereignty in them, but that they are to every effect themselves subjects: and, consequently, if he had not these powers he could not transfer them to the India Company. His master the Mogul had them not. I defy him to show an instance of that emperor claiming any such thing; much less a rebellious viceroy, who had broken loose from his authority, just as this man broke loose from the authority of Parliament. The one had not a right to give, nor the other to receive, such powers. Whatever rights were in the Mogul, those rights belong neither to Suja-ud-Dowla, to him, nor the Company. They are obliged to govern by law and by compact, by which they are bound to take care of the subjects [of the empire] and govern them according to law, reason and equity; and when they have done otherwise, they have been guilty of tyranny, of a violation of the rights of the people, and of rebellion against their sovereign. 30 May 1794.

Necessity of dealing with facts upon fixed principles.

We have taken these pains to fix principles, because your Lordships upon naked facts cannot judge. A jury may find facts, but no jury can form a judgment of law. It is an application of the law to the fact that makes the act criminal or laudable. You must find a standard of some kind or other; for, if you find a standard of nothing but the immediate momentary purpose of the day, guided and governed by the man who uses it, [fixed] not only for the disposition of all the wealth and strength of the state, but for the life, fortune and property, of every individual, your Lordships are left without a principle to judge upon. This high court—this supreme court of appeal from all the courts of the kingdom—this highest court of criminal jurisdiction, exercised upon the requisition of the House of Commons—[if left]* without a rule and without a law, [would be]* as lawless as the wild savage, and unprincipled as the prisoner that stands at your bar. Our whole issue is upon principles: we have nothing else. And, in what I shall say to you, I shall be in a perpetual reference to them; because it is better

* Revised copy.

30 MAY 1794. to have no principles at all than false principles of government; to have no principles of morality at all than false principles of morality. Leave a man to his passions, you leave a wild, eccentric, nature; you leave a wild beast. A wild beast, indeed, when its belly is full, will caress you, and may lick your hands. A wild beast will sometimes act by good, sometimes ill, nature; according as humour is pleased or appetite satiated. You may have a happy and serene day under the government of mere passion; but, when the principle which is to correct passion, when the solid judicial reason is perverted, gone and destroyed, it will be an usurpation substituted in the place of that reason. Then man is ten times worse than an unbridled animal—is ten times worse than a wild beast. The evil principle [grown] solid, perennial, becomes a goading and ruling principle in his mind; and perhaps the best refuge and escape that you can have from that diabolical principle is in the wild passions and unbridled appetites of mankind. This is a dreadful state of things; and therefore we have thought it necessary to say a great deal upon the principle.

My Lords, we come next to apply facts to those principles; otherwise they cannot be judged as we have contended and do contend. I will not go over these facts, as they have been opened to you by my fellow Managers. I should have a distrust, which no human being has, of the first abilities in the greatest cause in the world—I should have a presumption which I hope I shall not dream of, but leave to those who exercise arbitrary power and will—in supposing that I could go over the same ground that they have once trodden, and make anything [more] forcible. In my humble opinion, human ability cannot go further than they have gone. My Lords, if ever I allude to anything that they have already touched, it will be to show it, perhaps, in another light; showing it as a departure from those principles upon which we contend that you shall judge, or supplying those parts which, through bodily infirmity, and nothing else, I am sure, one of my excellent fellow Managers has left untouched. Therefore, when we come with these principles, we come first just to state to you that one of my honourable fellow Managers, Mr. Grey, has stated to you all the circumstances that prove two things:—first, that the demands made by Mr. Hastings were contrary to fundamental treaties between the Company and Cheyt Sing: and, next, that they were the result and effect of private malice and private

Character of the demands made upon Cheyt Sing by Mr. Hastings.

30 May 1794.

corruption. He having proved that to you, I shall take it up somewhere where he has left it.

My Lords, in the first place, I have to remark to you, that the whole of the charge, as it stood there, upon Cheyt Sing is this;—that he had been dilatory, evasive, shuffling, and unwilling to pay what, however unwilling, however evasive, however shuffling, he did pay, with regard to all the extraordinary subsidies demanded, or, as we contend, extorted from him. With regard to the business of furnishing cavalry, he gave reasons;—he was desired to furnish it, but they never pointed out the application, the place of muster, nor the service to which it was intended. And therefore we contended that it was a demand made, not for the service of the state, but for the oppression of the individual that suffered by it.

Nature of the offence imputed to Cheyt Sing.

Having come to that, the next point is to consider what is the nature of that offence. If you strip it of all names and disguises, it amounts to this—an unwillingness in the Raja to pay more than the sums stipulated by his agreement and by the reciprocal agreement of the Company. There is the whole of it. The whole front and head of the offence is that and nothing more—an unwillingness to pay: and, admitting that, if there is any rule of punishment for the non-payment of a fine, that he was obliged to pay. Another secret punishment was in a bribe to Mr. Hastings, by which he was to buy off punishment, and which consequently was a commutation for that punishment. Lastly, he did pay, finally, this money, every shilling of it, so far as it was a pecuniary transaction, and gave reasons with regard to the rest. Now there is the whole of the offence: and now let us see what kind of offence it is.

His relation to the Company.

What was the relation of Cheyt Sing to the Company? He was a person clothed with every one of the attributes of sovereignty; with a direct stipulation that the Company should not interfere in his internal government. The military, the civil, the power of life and death, the whole revenue, the whole administration of the law, rested in him. And consequently he was the sovereign: he was the sovereign within Benares; but he was a sovereign dependent upon another, by and according to the tenure of his compact.

Law of contracts between sovereign powers.

Now I will refer your Lordships—having contended, as we do contend, that the law of nations is the law of India as well as Europe, because it is the law of reason and the law of nature, drawn from the pure sources of morality, drawn

30 May 1794. from the pure sources of public good, drawn from the pure sources of natural equity, and recognised and digested into order by the labour of learned men — to Vattel, book i. cap. 16. [He is] treating upon the subject of the breach of such agreements; the protector refusing to give protection, and the protected refusing to perform his side of the engagement; namely, what by the compact of the subject he was obliged to pay. What I refer to this author to prove is this:—that Cheyt Sing, so far from being blameable in raising these objections, was absolutely bound to do so, for fear of hazarding the whole benefit of the agreement upon which his subjection was founded.

The law is the same with respect to the two contracting parties. If the protected does not fulfil his engagements with fidelity, the protector is discharged from his: he may afterwards refuse the protection and declare the treaty broken:—

["When a nation has placed itself under the protection of another that is more powerful, or has submitted to it with a view of protection; if this last does not effectually grant its protection when wanted, it is manifest, that, by failing in its engagements, it loses all the rights it had acquired by the convention, and that the other, being disengaged from the obligation it had contracted, re-enters into the possession of all its rights, and recovers its independence, or its liberty. It must be remarked that this takes place even in the case where the protector does not fail in his engagements by a want of good faith, but merely through inability. For, the weaker nation having submitted only to obtain protection, if the other does not find itself in a situation that will admit of its fulfilling that essential condition, the pact is dissolved; the weaker resumes its right, and may, if it thinks proper, have recourse to a more effectual protection."]

Then we contend, in favour of Cheyt Sing, in favour of the rights of natural equity, of the law of nations which is the birthright of us all—we contend that Cheyt Sing would have established, in the opinions of the best writers on the law of nations, a precedent against him for a violation of the agreement, if he did submit to it, without what our laws call a continual claim, or perpetual remonstrance, against what was doing. Instead, therefore, of doing what was a crime, he did that which his safety and his duty bound him to do.

Treasonable designs on the part of Cheyt Sing alleged to have been suspected by Mr. Hastings.

But, in the eye of Mr. Hastings, he was guilty of a great crime. Mr. Hastings, in a paper which he published in justification of this act, did suppose him to be guilty of a rebellious intention, and [stated] that he looked upon these acts of contumacy, not as proofs of contumacy merely, but as proofs, as he considered it, of a settled design to rebel and to throw

off the authority of that nation which protected him. He has declared publicly, under the sanction and solemnity of an oath, that he did believe such a thing, and that it was the ground of his conduct. It is on your Lordships' Minutes, page 112: you will see that is given twice over, I think, but certainly once, I am sure, under the deliberate sanction of a solemn oath, that such was his opinion upon such an occasion. 30 May 1794.

Duty of Mr. Hastings as Governor.

Now, my Lords, we do contend that if any subject, under any name or any description, not engaged in public, open, rebellion, resisting the sovereign by arms and endeavouring to reduce him by power—if any person not in that open rebellion, but still continuing to pay his taxes conformably to agreements—I say, if he has formed such a secret conspiracy as that, what was the duty of Mr. Hastings, as a state governor and as a magistrate? He had a state duty and a judicial duty in him: first, as a magistrate, he was obliged, knowing of such a conspiracy, to provide for the public safety against it; as a judge, he was obliged to convene a criminal court; to give a detailed accusation of his offence; to proceed publicly and legally against him, and to convict him of that crime; previous to his intent or previous to his dream of inflicting any punishment upon him. Then we will say—always wishing you to bear it in mind—that the duty of a magistrate, when any man talks of a crime or delinquency, is, to exercise [his office] by English law, to exercise it by Mohammedan law, or to exercise it by the Gentu law,—all equally defined; that is, that you are to make the man know the crime with which he is charged; that you will call upon him to answer it; that you will hear his answer; that you will produce the evidence against him; and that you act in an open, clear and judicial, manner.

Mode of proceeding according to the Gentu law.

We are to remark, my Lords, that this law is a great discriminator of persons, and mentions the ways of calling to an account, whenever they are to be chastised and punished, persons, according to the distinction and rank which they hold in society. Accordingly, the proceeding is exceedingly sober, regular and respectful, even to criminals who are charged with the highest crimes and offences; and accordingly every magistrate is obliged to exercise his office in this manner:—In the Hedaya, after mentioning that the kazi ought to sit openly for the execution of his office, after discussing this question, it says, there is no impropriety in the kazi sitting in his own house to pass judgment, but

30 May 1794. it is requisite that he give orders for a free access to the people. Then it proceeds:—

"It is requisite that such people sit along with the kâzee as were used to sit with him, prior to his appointment to the office; [because, if he were to sit alone in his house, he would thereby give rise to suspicion.

"The kâzee must not accept of any presents, excepting from relations allied to him within the prohibited degrees, or those from whom he was used to receive them prior to his appointment; neither of which can be esteemed to be on account of his office, the one being in consequence of relationship, and the other of old acquaintance. Excepting these, therefore, he must not accept presents from any person, as these would be considered as given to him on account of his office, and such it is unlawful for him to enjoy. If also his relation within the prohibited degrees, having a cause depending before him, should offer him a present, it is incumbent on him to refuse it. So likewise, if any person accustomed to send him presents prior to his appointment should send him more than usual,—or if, having a suit before him, he should send him any present whatever; in neither case is it lawful for him to accept them, since they would be considered as given to him in consequence of his office, and hence an abstinence from such is indispensable.

"The kâzee must not accept of an invitation to any entertainment, excepting a general one; because a particular entertainment would be supposed to have been given on account of his office, and his acceptance of it would therefore render him liable to suspicion; in opposition to the case of a general one. This ordinance, which has been adopted by the two elders, applies equally to the feasts of relations and others. It is related as an opinion of Mohammed, that the kâzee may accept of an invitation to a feast from his relation, although it be a particular one, in the same manner as he is permitted to accept presents from him. It is to be observed that a particular entertainment means such as depends entirely on the presence of the kâzee; that is, such as would not take place in case of his absence; and a general one is the reverse.

"It is fitting that the kâzee attend at funeral prayers; and also that he visit the sick; for these are among the duties of a Mussulman, inasmuch as the prophet, in enumerating six incumbent offices of the Mussulmans towards each other, mentioned funeral prayers and the visiting of the sick. But it is requisite that, on these occasions, he make no unnecessary delay, nor permit any person to hold a conversation on the subject of his suit, lest he should thereby afford room for suspicion.

The kâzee must not give an entertainment to one of the parties in a suit without the other, because the prophet has prohibited this; and also because it is of a suspicious nature.

"When two parties meet in the assembly of the kâzee, he must behave to both (in regard to making them sit down and the like) with an equal degree of attention; because the prophet has said:—'Let a spirit of equality be observed towards the parties in a suit with respect to their sitting down, or directing them, or looking towards them.'

The kâzee must not speak privately to either of the parties, or make signs towards him, to give him instructions, or to support his argument; for, beside giving rise to suspicion, he would thereby depress the other party, who might be induced to suppress his claim, from an opinion that the kâzee was biased towards the other.

The kâzee must not smile in the face of one of the parties, because that will give him a confidence above the other; neither must he give

too much encouragement to either, as he would thereby destroy the proper awe and respect due to his office. 30 May 1794.

"It is abominable in the kâzee to prompt or instruct a witness, by saying to him (for instance), 'Is not your evidence to this or to that effect?' because assistance is thereby, in effect, given to one of the parties; and it is therefore abominable], in the same manner as it would be to instruct either of the parties themselves."*

Silence of Mr. Hastings as to the alleged rebellious designs of Cheyt Sing.

My Lords, we are to see what the duty of a judge is in such a case; whether Mr. Hastings observed any part of it. First, with regard to the publicity of the matter. Did he in Council ever give any notice? Did he accuse Raja Cheyt Sing, even when his Council was reduced to none but himself and his poor, civil, worn-down, beaten, cowed, and, I am afraid, bribed colleague, Mr. Wheler? Did he in that case ever produce any one charge against this man? He is a judge: he is an English judge: he is a Mohammedan judge; a judge by the Gentu, or the law of nature. He should have convened the party, by himself or his attorney, before him, and there informed him of the charge that was against him. He has not done that. He has kept it secret in his breast. Why? Because he did not believe it to be true, as he never instructed the Council of it. Did he ever let the Raja of Benares know, in the multiplied discussions that there were upon all the demands of him, that there was anything else than a discussion concerning these demands? Did he ever tell him, as he has had the audacity to tell this kingdom, in the paper that is before your Lordships—had he ever told him that he looked upon these refusals of his to be overt acts of rebellion, and desired him to answer with regard to that conspiracy, or with regard to that rebellion? Never!

Did he tell Sadanund, when he was giving him a bribe or a present in secret to deprecate his wrath, that he accepted that bribe because his master was in rebellion? Never; and for this I shall give you chapter and verse, so far as negative evidence can be. Did he ever, when he went up to Benares, when he absolutely had the Raja in his power, immediately previous to his imprisonment, when he made a regular written impeachment against him and desired his answer to it—did he then ever suggest anything concerning this rebellion? No; he never did!

Did he, when he met Mr. Markham at Bhagulpore, where

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* The Hedaya, or Guide; a Commentary on the Mussulman Laws; translated by Charles Hamilton. Calcutta, 4 vols. 4to, 1791: vol. ii. p. 621.

30 May 1794. they consulted about the destruction of this unhappy man—did he ever tell Mr. Markham, or did Mr. Markham ever insinuate to him, any one thing about this conspiracy and rebellion? No; not a word! Did he at Buxar do it? When and where in his progress up the country did he do it? While at Bhagulpore, he wrote a letter to Lord Macartney upon the state of the empire, giving him much and various advice. Did he ever insinuate in that letter that he was going up to Benares to suppress a rebellion of the Raja Cheyt Sing, or to punish him? No; not a word! Did he, my Lords, when he was going up, at the eve of his departure, when he communicated his intention of taking 500,000*l.*, which he calls a fine or a penalty, from the Raja—did he inform Mr. Wheler of it? No; not a word of his rebellion, nor anything like it! Did he inform his secret confidants, Mr. Anderson and Major Palmer, upon that subject? Not a word! There was not a word dropped from him upon it—not a syllable. Has he given or insinuated anything of any such rebellion, or intention in the Raja Cheyt Sing to rebel? Did he, when he had vakils in every part of the Mahratta empire and in the country of Suja-ud-Dowla, when he had Residents in most of those courts, English ambassadors and native spies—did he, either from ambassadors or native spies, receive anything like authentic intelligence upon this subject? Is it to be believed that Cheyt Sing, a person whom Mr. Hastings describes as of a timid, weak, irresolute, feeble, nature, who was the zamindar of Benares alone, should venture to make war with the whole power of the Company in India, and aided by all the powers which Great Britain could bring to the protection of its Indian empire? Could that poor man, in his comparatively small district, possibly have done such a thing, without giving Mr. Hastings access to the positive knowledge of it, from one or other of the various, multiplied, correspondences which Mr. Hastings had in that country?

Improbability of the existence of such designs.

Silence of Mr. Hastings' agents on the subject.

Nay, I will go further. He had in his hands at Benares, while he was there, Beneram Pundit, the vakil of the Raja of Berar, his own confidential friend, a person whom he took out of the service of his master and gave him a jagir in this very Rajaship of Benares, taken from that Raja, who advanced to Mr. Hastings in his great distress a sum of no less than a whole lac of rupees, upon his own credit; and this man, so attached to Mr. Hastings, so knowing in all the transactions of India, has not given, though he was on

the spot, one single word to prove that any such conspiracy with any one foreign power existed. 30 May 1794.

As to the Nawab of Oude, will any one believe or think that Mr. Hastings, to whom he was an actual prisoner, for he was nothing less—a vassal, as he says himself, in effect and substance, though he was not in right—should not know, by the English Resident and a whole tribe of English gentlemen—that he should not know through a whole body of English military collectors that were placed in that country, exercising the most arbitrary powers—that not one of these should have given him, previous to the breaking out of that rebellion which did arise from his arresting Cheyt Sing, one word of previous intelligence which he could trust or regard upon that subject?

Absence of motive on the part of Cheyt Sing.

There was an ancient Roman lawyer, of great fame in the history of Roman jurisprudence, whom they called *Cui Bono*. He was called so for being the first that introduced into judicial proceedings the argument—what end or object could a person have in this? It will be asked, could Cheyt Sing wish to rebel, who held on easy and moderate terms—for such I admit they were—a very considerable territory, with every attribute of royalty in it? His money was paid for a protection which he was bound to receive. What reason under heaven could he have to go and seek another master? Is it with Asoff-ud-Dowla, the son of that Suja-ud-Dowla, of whom Mr. Hastings told you, in so many direct and simple and plain words, that neither his property, his honour nor his life, could be safe in those hands—is it there he would seek for refuge? Is it in the dominion of the Mahrattas, who, though Gentus like himself, have reduced every nation which they did subdue to the most severe servitude—always excepting those who were originally of their own empire? Can any one believe that he either wished for the one or the other; and to quit the happy, independent, situation in which he stood under the British empire and protection, for any loose, wild, improbable, imaginations of mending his condition? It is impossible. There is no evidence, as I have stated—not one word of this charge existing. But all the evidence in the world is not sufficient to prove it, because it is impossible it should be true.

Mr. Hastings, though he has sworn this, has fairly and candidly, when he came before the House of Commons, admitted and avowed that he had no such opinion and no

30 MAY 1794. such idea; and the place in which he has admitted and avowed that is in his Narrative:—

Denial in Mr. Hastings' narrative of his pretended suspicions.

"Every step which I had taken before that fatal moment, namely, the flight of Cheit Sing, is another uncontrovertible proof that I had formed no design of seizing upon the Rajah's treasures or of deposing him. And certainly, at the time when I did form the design of making the punishment that his former ill conduct deserved subservient to the exigencies of the state, by a large fine, I did not believe him guilty of that premeditated project for driving the English out of India, with which I afterwards charged him."

Then, in his Narrative, he declares upon oath that that contumacy was the ground of his suspecting him of rebellion; and yet, when he comes to make his defence before the House of Commons, he simply and candidly declares that he did not believe him to be guilty of any such thing, and that the fine he imposed upon him was quite for another reason and for another purpose. You will see that, in page 28 of your printed Minutes, he tells you what he did mean it for:—

"I can answer only to this formidable dilemma,"—that is an objection why he did such a thing,—"that, so long as I conceived Cheit Sing's misconduct and contumacy to have *me*, rather than the Company, for its object, at least to be merely the effect of pernicious advice or misguided folly, without any formal design of openly resisting our authority or disclaiming our sovereignty, I looked upon a considerable fine as sufficient both for his immediate punishment and for binding him to future good behaviour."

Mr. Hastings' demands upon Cheyt Sing prompted by personal resentment.

The secret is all out! He declares it was not for a rebellion or suspicion of a rebellion he was resolved, over and above all his exorbitant demands, to take from him 500,000*l.* —a good stout sum to be taken from any one by any power whatever—that it was not for that he took it, but for his ill behaviour personally to himself; that he considered his contumacy at that time as having, not the Company for its object, but as having Warren Hastings for its object: and that he declares publicly to the House of Commons. And now, before your Lordships, he declares finally, conclusively, upon all this matter, after we had been at the trouble of proving that he could not believe it—he swears that he did believe it; although before the House of Commons he declared that he did not believe it, and that the punishment of 500,000*l.* was not taken for an overt act of any person or rebellion against the Company, but that it was taken as a fine for injuries and insults offered to himself:—

"So long as I conceived Cheit Sing's misconduct and contumacy to have *me*"—in italics, as he ordered it to be printed—"rather than the

Company for its object, so long I was satisfied with a fine. I therefore entertained no serious thoughts," he says, "of expelling him or proceeding otherwise to violence. But when he and his people broke out into the most atrocious acts of rebellion and murder, when the *jus fortioris et lex ultima regum* were appealed to on his part,—and without any sufficient plea afforded him on mine,—I, from that moment, considered him as the traitor and criminal described in the charge; and no concessions, no humiliations, no submissions, could ever after induce me to settle on him the zemindary of Benares or any other territory, upon any footing whatever." 30 May 1794.

Mr. Hastings' admissions as to the origin of the rebellion.

Then, my Lords, he has here confessed that the era, and the only era, of a rebellion which he ever conceived, was that which broke out upon the act of violence offered by himself to Cheyt Sing. He confesses it, and from that moment describes two things; one, the fine which was to be laid upon him for his personal misbehaviour to Warren Hastings and not to the Company; the other was a proceeding in consequence of a rebellion then broken out, in consequence of the very demand of that fine. And there he fixes the period for the rebellion; and upon that ground he says, he never would suffer him to enjoy any territory or any rights whatever. So that we have fixed upon the period of rebellion for which he is supposed to exact this fine, and the period of rebellion was upon the exaction of the fine itself; so that the fine was not laid for the rebellion, but the rebellion broke out in consequence of the fine, and the violence he attempted to make use of upon it. We have established it: the whole human race cannot shake it. He did not believe it. He went up through malice to revenge his private wrongs, not those of the Company. He fixed 500,000*l.* as a mulct for an insult to himself, and then a rebellion broke out in consequence of his violence. That is the rebellion and the only rebellion; and that is the rebellion of Warren Hastings, which arose from that dreadful exaction, which arose from his pride, which arose from his malice and insatiable avarice, which arose from his abandoned tyranny, and from that lust of arbitrary power that he had, [and from his determination]* to imitate Suja-ud-Dowla, Asoff-ud-Dowla, Cossim Ali Khan, Aliverdy Khan, and all that gang of rebels whom he makes the subject for his imitation. "My patience," says he, "was exhausted." Your Lordships have, and ought to have, a judicial patience. Mr. Hastings has none. I hold that patience is one of the great

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* Revised copy.

30 MAY 1794. virtues of a governor. It was said that Moses governed the world by patience, and that he was the meekest man upon earth. Patience in particular is the distinguishing character of a judge; and I think your Lordships, both with regard to us and with regard to him, have shown a great deal of it. We shall ever honour the quality; and must pretend to say, if we have great patience in going into it, so your Lordships have great patience, as many as there are here, in hearing of it:—

"My patience was exhausted by such acts of contumacy, and I determined—I repeat it—to convert them into an advantage for the Company's affairs. I considered the light in which such behaviour would have been viewed by his native sovereign, and I resolved he should feel the power he had so long insulted. Forty or fifty lacks of rupees would have been a moderate fine for Sujah-ul-Dowlah to exact; he who had demanded twenty-five lacks for the mere fine of succession, and received twenty in hand, and an increased rent tantamount to considerably above thirty lacks more; and therefore I rejected the offer of twenty with which the Rajah would have compromised for his guilt, when it was too late."

Examples proposed by Mr. Hastings for imitation.

Now, my Lords, observe who his models are when he was thinking to punish this man for an insult on himself. Did he look to the laws? Did he look to the institutions of Timur—to the institutions of Genghis Khan? Did he look to the laws of the Hedaya? Did he look to all the approved authorities in this country? No; he followed exactly the advice which Longinus gives to a great writer:—"Whenever you have a mind to elevate your mind, to get your mind to the highest pitch, and even to exceed it, think how would Homer have described it, how Plato have imagined it, and how Demosthenes would have expressed it; and then, when you have done so, no doubt you have a standard which will raise you up to the dignity of anything that human genius can aspire to." But Mr. Hastings was calling upon himself to raise his mind to the dignity of what tyranny could do, what unrighteous exaction could perform. He says, he considered how Suja-ud-Dowla would have done it, how he would have exacted it; it would not have been too much for him to do it:—"I raise my mind to the elevation of Suja-ud-Dowla—consider what Cossim Ali Khan would have done, what Aliverdy Khan, who murdered so many. I had all this line of great examples before me. I ask what fine they would have exacted upon such an occasion. That would not have been too much for him who exacted a fine of twenty-five lacs, as a mere fine for the line of succession."

Good God! if you were not shocked with the violent injustice of arbitrary proceedings, you could not but feel something humiliating in the gross ignorance of those who are in this manner playing with the rights of mankind. This man confounds a fine upon succession with a fine of penalty. He takes advantage of something. I am sorry to say that our English law is not, in many parts of its jurisprudence, as correct in its distinctions as wise in its provisions: the Mohammedan law beats us all. We use fine in three senses:—fine, as a punishment and penalty; fine, as a formal means of cutting off by one form the ties of another form, which we call levying a fine; and we use the word fine to signify a sum of money payable upon a renewal of a lease or copyhold. These words having a totally different sense, such is the stupidity and barbarism of the prisoner, that he confounds these together, and says,—"Suja-ud-Dowla took twenty-five lacs as a fine for the renewal of his zamindary, and therefore, as a punishment for his offences, I shall take fifty." Good God! suppose any of you were to pay a fine; what language would it be, if it should be said you paid at such a time a fine for such a bishop's lease, you paid at such a time a fine for such a purchase of an estate, you gave or received such a fine from such a person; and therefore, if you are going to be fined for an assault and battery or anything else, they took the measure of it, not from the nature and quality of your offence, not from the law upon the subject or from your ability to pay it, but the sum you have paid for a fine some years ago for an estate shall be the measure of it? This is the most brutish ignorance and the most shocking confusion of ideas that can be. Then, when he had elevated his mind according to the rules of art, and stimulated himself to great things by great examples, he says;—

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Distinction between the several kinds of fines.

"I rejected the offer of twenty lacs, with which the Rajah would have compromised for his guilt when it was too late."

Then, my Lords, permit me here to say a few words, referring back all this monstrous heap to some degree of principle. Mr. Hastings, having acquitted completely the Raja of any other [fault] than contumacy, confining that contumacy and supposing it to be only personal to himself, thinks a fine of 500,000*l.* is proper. Now, when any man goes to exact a fine, it presupposes inquiry, charge, defence and judgment. It does so in the Mohammedan law: it does so in the Gentu law: it does so in the law of England: it does so in the Roman law; and in the law of every nation under

Infliction of a fine of 500.000*l.* upon Cheyt Sing by Mr. Hastings.

30 May 1794. heaven, except in the arbitrary breast of Mr. Hastings, poisoned by the principles and stimulated by the example of those wicked traitors and rebels that I have described here before. He mentions a fine. Did he charge the Raja with his offences? It does appear that he held an incredible quantity of private correspondence through the various Residents, Mr. Graham, Mr. Fowke, Mr. Markham, Mr. Benn, concerning the affairs of that country. Did he ever, upon this contumacy—for I put the rebellion out of the question, and state how he has proceeded on this crime of contumacy and personal affront to a Governor General of Bengal—did he ever state it to him—examine any person upon it? Did he call his vakil before the Council to answer for it? Did he particularise any one single crime, in any one way whatever? No! What did he do?

His illegal mode of proceeding. My Lords, judge he was none in it. He was erecting himself both as the injured party, as the accuser, and as the judge; without a party before him, without trial, without examination, without proof. On the contrary, he takes the very direct reverse course of the order of justice. He begins with a resolution, as he says, when his patience was exhausted, to fine him, not when the justice of the cause appears to him—to fine him 500,000*l.* Does he inform the Council of it? No! The court of Directors? No! Any one of his confidants? No! not one of them; not Mr. Markham, at the time—not till he met him at Bhagulpore; not Mr. Palmer; not Mr. Middleton; nor any of that legion of secretaries that he had. We only know that many letters came from Cheyt Sing to him, endeavouring to appease his wrath; to not one of which he ever gave an answer. Why then, here is an accuser who makes an accusation, who hears apologies and hears defences, and never gives the party an answer. Though he has a legion of secretaries about him, maintained at the expense of this miserable people and by sums of money drawn fraudulently out of their pockets, not one word of answer is given.

Is this the proceeding of a judge? The learned Counsel will tell you: Lord Coke will tell you. [He forms a resolution of exacting a fine from his victims] and afterwards he gets them by torture to discover where their treasures lie, in order that he may rob them of all they have. And that Lord Coke calls—and these learned gentlemen, I dare say, will remember the passage: it is too striking not to be remembered:—[What "the philosophical poet doth notably describe,]

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the damned and damnable proceedings of the judge of hell;"* namely, the proceedings of the prisoner at your bar, who has made himself that judge in hell. First he determines upon the fine; then he prepares the accusation; and then, by torture and violence upon the person, endeavours to exact it.

Secret designs of Mr. Hastings.

How did he proceed in this business? He never entered any charge. He never answered any letter. Was he idle in the meantime? Oh, no such thing! He carried on a private, secret, wicked and clandestine, plot, utterly to destroy this man upon the pretence of this fine. And though it was unknown, I verily believe, to any European at the time, because he does not pretend that he told any one of it till after, yet it was perfectly well known to the natives; for Mr. Hastings tells you that Cheyt Sing had a vakil there, whose business it was to learn the most minute particulars that could affect him in any degree, or indeed of every transaction of our Government. And I must tell your Lordships, what is a known fact, that there is no court in Asia, from the highest to the lowest, that does not both employ and receive a harkara, as they call him; in other words, a person to receive and to communicate intelligence. He is received with the state and rank of an ambassador. He has his place in the durbar. These persons execute that office: they are received in public in the durbar; and their business is known as well to be authorised spies, as ambassadors extraordinary and ordinary, envoys and residents, are known to be, in the courts of the kings of Europe. Mr. Hastings had one in the person of a Resident at Benares, and he had another person there as a spy. These people, some way or other, came to discover Mr. Hastings' wicked and clandestine intentions with regard to this unhappy man and his unhappy country, for the destruction of one and the total and utter ruin of both; for he has told you, and he has got Mr. Anderson to vouch it, that he had received proposals for the sale of this miserable man and his country—from whom?—from the Nawab Asoff-ud-Dowla; and [he threatened] that if he did not redeem himself from him, he would transfer him and his country into the dominion of the Nawab Asoff-ud-Dowla.

Their discovery by the agents of the native powers.

Proposal on the part of Asoff-ud-Dowla to purchase the zamindary of Benares.

Character of Asoff-ud-Dowla.

Asoff-ud-Dowla, [as appears] by the Minutes on your Lordships' table, as well as the notorious state of the fact, was a bankrupt. He was in debt tenfold more than he

* "The second Part of the Institutes of the Laws of England:" by Sir Edward Coke; London, fol. 1681, p. 54.

30 May 1794. could pay, at the time, to the Company. All his revenues and his country were sequestered for that debt. He was a person of the last degree of indolence, with the last degree of rapacity. He was a person of whom Mr. Hastings has declared, his father could neither have his life nor honour in safety under him; a man who had no person in his dominions secure from violence; a person who wasted and destroyed by his misgovernment the fairest part of the world. This bankrupt tyrant, this person full of avarice, stimulated by poverty and want, who destroyed his own country and could not pay his debts to the English—this was the man that Mr. Hastings was in treaty with to deliver up Cheyt Sing, because he did not pay regularly to the Company those customs which he was sure, if that tyrant had the country, never would be paid at all. This I state upon the point of economy, without considering the injustice of delivering a man to his own family, hereditary, enemy—that he had received proposals for it, and that, if Cheyt Sing did not satisfy him, he would deliver up the beautiful country of Benares—that garden of God, like the land of Egypt as you go towards Zoar—he would deliver it up to that monster, that rapacious tyrant, to that gang of people who have, like locusts, desolated that country.

Mr. Hastings' threat of seizing the forts of Cheyt Sing.

He proposed likewise to take from him his forts. What is that—to take from him his forts—what is that, but taking the residence of his women, the seat of his honour, the place in which all the hopes and possessions of his family are centered? By the Gentu law the magistrate is bound to construct such a fort, and to live in it. It is the usage of India. It is a matter of state and dignity, as well as of propriety, reason and defence. What does Mr. Hastings say of this matter? Now this is what he proposed; and Cheyt Sing offered to buy himself off, I suppose hearing of this proposal; but, as it appears upon that part of the evidence, hearing only that he intended, over and above all his other exactings, to exact six lacs more, he proposed to buy himself off from this. Mr. Hastings tells you that this plot is from him. He says, the Raja suspected some strong acts to be against him, and therefore he asks whether he could not buy them off, and obtain Mr. Hastings' favour by the payment of 200,000*l.*; that Mr. Markham's opinion was that 200,000*l.* was not sufficient; and that the next day he offered 20,000*l.* more—in all 220,000*l.* This is the effect of it, as Mr. Markham learned from the conversation; and he

Offers on the part of Cheyt Sing of 220,000*l.* as a compromise.

was of opinion that it broke off—why?—because the Nawab had learned that Mr. Hastings had not an intention of imposing these six lacs, or something to that effect. 30 May 1794.

There is the account as it was understood at Benares, as Mr. Markham conceived it from the narrative he had received there.

Now hear what reason the real man who was in the true secret gives for his not accepting it. Was it that the Raja had drawn back, as Mr. Markham seems to imagine he had; that, because he found he was not to be subject to six lacs, he withdrew his consent to the 220,000*l.*? No; quite the reverse. Mr. Hastings declares that it was he that rejected it. It is not what Cheyt Sing says: it is not what Mr. Markham conceived upon the matter; but Mr. Hastings tells you:—"I rejected the offer of twenty lacs, with which the Raja would have compromised for his guilt, when it was too late." He refused to receive it. He knows best what the motives of his own actions were. When it was too late! Did he tell the person "You must pay a certain sum of money to buy yourself off," and, having refused the offer he made, say, "Come and make a better offer, or upon such a day I shall declare that your offers are inadmissible?" No such thing appears: and therefore he, Mr. Hastings, refused 200,000*l.* in the Company's pressing exigencies; at the time when he was obliged, as he says, to rob, pilfer and steal, upon every part; at the time when he was giving, to buy assistance, 40,000*l.* to Mr. Sullivan in one morning, and distributing in other under jobs 27,000*l.* more. In that exigency, which he was brought to by his own extravagance and prodigality—in that exigency, 200,000*l.* had been a serious benefit, although arising from his villany: that he positively refused, because, says he, it came too late.

Rejection of the offer by Mr. Hastings.

Now the words "too late" must mean that there was a period in which, if he had made such an offer, it would have been accepted. No such thing appears: not a trace upon your Minutes: not a trace in the correspondence of the Company. Why? Because no such thing happened. Mr. Hastings rejects, and refuses to permit him to buy himself off from this various and complicated tyranny.

Pretended reason for the rejection.

There is a curious thing very well worthy your Lordships' remark. Does it appear any where in that correspondence—does it appear upon the testimony of Mr. Benn—does it appear upon the testimony of Mr. Markham—does it appear upon the testimony of any human being—that he had

30 May 1794. ever told Cheyt Sing with what sum he should be satisfied? He never told it to him. Any way, there is evidence before you directly in proof that they did not know it. Not one person knew what his intention was when he refused this 200,000*l.* For when he met Mr. Markham when going up at Bhagulpore, Mr. Markham for the first time heard him mention the sum of 500,000*l.*, and he was astonished and confounded at the magnitude of it. He tells you so himself. It does not appear that Cheyt Sing or the Resident, who ought to have been in his secrets upon such an occasion, if any such thing should be secret, ever knew what the terms were. He was left to feel blindfold in the dark how much money could relieve him from these iniquitous intentions of Mr. Hastings; and Mr. Hastings tells him that this offer comes too late, without ever telling him what it was he proposed to take from him.

I go back again therefore to the laws, and I ask, was this a way of taking a fine; setting a man up to sale to all his enemies, intending to strip him of all that he has, and fixing an exorbitant fine without letting him know what it was; refusing the offers that he had made, not because they were moderate or immoderate, but because too late; and going up with a fixed design utterly to destroy him? He defends himself for his zeal to the Wazir in this manner, after he is proved to your Lordships by one attestation upon oath, and another formal one though not upon oath—that is, by Mr. Palmer and by Mr. Anderson, page 273 of the printed Minutes—[to have admitted that an offer had been made to him from the Raja of twenty lacs, as a retribution for his failure of engagements]:—

"Therefore I rejected the offer of twenty lacks, with which the Rajah would have compromised for his guilt when it was too late."

That was probably in April, but certainly in May, because the conversation at Benares upon it happened in May, two months before he went up, and when the Company's affairs were in the greatest distress. He refused the offer because it was too late; and this design he had formed long before:—

Justification of the threats held out to Cheyt Sing by Mr. Hastings.

"If I ever talked of selling the Company's sovereignty over Benares to the Nabob of Oude, it was but *in terrorem*; and no subsequent act of mine warrants me to have seriously intended it."—"If I ever threatened"—always putting it hypothetically upon a matter which he has solemnly got to be declared on an affidavit, and under a narrative deposed to upon oath:—"If I ever threatened to dispossess the Rajah of his territories, it is no more than what my predecessors, without rebuke from their superiors, or notice taken of the expression, had wished and

intended to have done to his father, even when the Company had no pretensions to the sovereignty of the country. It is no more than such a legal act of sovereignty as his behaviour justified, and as I was justified in by the intentions of my predecessors. If I pretended to seize upon his forts, it was in full conviction that a dependant on the Company, guaranteed, maintained and protected in his country by the Company's arms, had no occasion for forts, had no right to them, and could hold them for no other than suspected and rebellious purposes. None of the Company's other zemindars are permitted to maintain them; and even our ally, the Nabob of the Carnatic, has the Company's troops in his garrisons. Policy and public safety absolutely require it. What state could exist that allowed its inferior members to hold forts and garrisons independent of the superior administration? It is a solecism in government to suppose it." 30 May 1794.

This is in page 26 of the printed Minutes.

Now, my Lords, first he declares that this was done *in terrorem;* that he never intended to execute this abominable act. Then think, my Lords, what terrors are hung by your Governor in India over the unhappy people that are subject to him and protected by British faith, if to extort money from them he holds out such terrors; namely, the terror of delivering them bound, hand and foot, into the hands of their perfidious enemies—the terror of taking from them the forts in which their women are lodged, in which according to their notions their honour is lodged, in which is lodged all the wealth that they can save against an evil day to purchase off an enemy, agreeably to the settled principle and rule of the Gentu rule, agreeably to his duty, agreeably to his law, agreeably to his religion, agreeably to all his prejudices. These forts Mr. Hastings intended to take, because he could hold them for no other than rebellious and suspected purposes. Now I will show your Lordships that this man, who has the horrible audacity to declare that, did himself give him these very forts, put him in possession of them, confirm them unto him, and, when there was a dispute about the Nawab's rights on one side and the Company's on the other, did confirm them upon this man! Give me these things, that you may have before your eyes the gross contradiction into which great rapacity and arbitrary power betray men. Thank God! my Lords, men that are greatly guilty never are wise. They do not know how to order their defence, but in such a way that, when they attempt to escape in one way they, like the ghosts mentioned in the tragedy of Virgil—when they attempt to fly out, they [are sure to meet the spectre of some former defence which drives them back. Like the hero of the poet:—

Its inconsistency with Mr. Hastings' previous conduct.

> "Quâcunque viam virtute petivit,
> Successum dea dira negat."

30 May 1794. When he attempts to make his escape by one evasion,]* his contradiction stops him. If he attempts to escape at one door, there his criminal allegation of one kind stops him. If he attempts to escape at another, the facts and allegation for another wicked purpose stare him in the face.

It is in page 1002 of the printed Minutes. You are to understand that it is an accusation made by Nundcomar against him. Nundcomar made a great variety of accusations of other matters as well as of bribes. Mr. Hastings answers nothing to the bribes, but answers with the most punctilious exactness to every other part of the accusations—even to a palanquin. But read what he says of these forts, which, he says, could be held for none but suspicious and rebellious purposes. We will read Nundcomar's charge, and then Mr. Hastings' answer:

Extract from Nundcomar's charge respecting the forts held by Cheyt Sing.

"At the time Mr. Hastings was going to Benares he desired me to give him an account in writing of any lands which, though properly belonging to the Subah of Bahar, might have come under the dominion of Bulwant Sing, that they might be recovered from his son, Rajah Cheit Sing. The pergunnas of Kera, Mungrora, and Bidjegur were exactly in this situation; having been usurped by Bulwant Sing from the Subah of Bahar. I accordingly delivered to Mr. Hastings the account of them, from the entrance of the Company upon the Dewanny to the year 1179 of the Fussel era, stated at twenty-four lacks. Mr. Hastings said, 'Give a copy of this to Roy Radha Churn, that if Cheit Sing is backward in acknowledging this claim, Radha Churn may answer and confute him.' Why Mr. Hastings, when he arrived at Benares and had called Rajah Cheit Sing before him, left these countries still in the Rajah's usurpation, it remains with Mr. Hastings to explain."

Reply of Mr. Hastings.

This is the answer of Mr. Hastings to the charge of Nundcomar:—

"I recollect an information given by Nundcomar concerning the pretended usurpations made by the Rajah of Benares of the pergunnas of Kera, Mungrora, and Bidjegur."

Your Lordships will recollect that Bidjey Gur is one of those very forts which he declares could not be held but for suspicious and rebellious purposes, on the province of Bahar, but at a much more distant period of time than Nundcomar has asserted.

"I do not recollect his mentioning it again when I set out for Benares; neither did I ever intimate the subject either to Cheit Sing or his ministers, because I knew I could not support the claim; and to have made it and dropped it would have been in every sense dishonourable. Not that I passed by it with indifference or inattention. I took pains to investigate the foundation of this title, and recommended it to the

* Revised copy.

particular inquiry of Mr. Vansittart, who was the chief of Patna at the time in which I received the first intimation of it. The following letter and voucher which I received from him contain a complete state of this pretended usurpation." 30 MAY 1794.

His admission that the claim of the British to the forts was unfounded.

These are only Mr. Hastings' vouchers; but they answer our purpose fully, to establish that his opinion was, that the claim of the English Government upon these forts at that time was totally unfounded, and that he did not even dare to mention it; it was so absurd. And yet that is for this fort of Bidjey Gur, the most considerable fort, and which you will afterwards hear enough of in this place, which is the place in which Cheyt Sing had deposited all the women of his family. That place and that fortress did Mr. Hastings himself give to this very man, deciding in his favour as a judge, upon an examination and upon an inquiry; and yet he declares that he had no right to them, and that he could not hold them but for wicked and rebellious purposes. But, my Lords, when he had held this language, he purposed to take away these forts; to destroy them; to root the man out of every receptacle, out of every place in which he could hide his head, to screen him from his rancour, revenge, avarice and malice. He was resolved to have them, though [he had], upon the fullest conviction of his right, given them to this very man, and put him into the absolute possession of them.

His acquiescence in the grant to Cheyt Sing in 1775.

Did he, when Cheyt Sing, in 1775, was put in possession by the patta, which contains an enumeration of the names of all the places of which he was put in possession, and this among the rest—did he then say to the Council when he was moving it,—"You are going to put forts into the man's hands to which he has no right, and which can be held only for rebellious and suspected purposes?" We shall refer to the place in which all the transactions are mentioned, in which Mr. Hastings took no one exception whatever against them. Nor, till he was resolved upon the destruction of this unhappy man, did he ever so much as mention them; and then he finds that it is "a solecism in government." After quoting these noble examples of Suja-ud-Dowla, and the other persons that I mentioned to you, he says that some of his predecessors wished, without any pretensions to sovereign authority, to get these things into their possession:—"and I was justified," says he, "by the intentions of my predecessors."

Merciful God! if anything could [surpass what he has

30 MAY 1794. said]* at the first, it is this. "My predecessors, without any title of sovereignty, without any right whatever, wished to get these into their power, and I therefore have a right to do what they wished to do; and I am justified in it, not by the acts but by the intentions of my predecessors." When these predecessors, he knows, had been reprobated by the Company for all parts of their proceedings; when he knows that he was sent there to introduce a better order, to put an end to this state of rapacity; he says that, whatever his predecessors wished, however unjust and violent—a wish founded upon no sort of right or claim of sovereignty—"that is enough for me, when I had the sovereignty in my hand, to do everything my wicked predecessors wished to do." The enormities practised before, which the Company sent him to correct, they became a sacred standard to him. But he slips in the word "sovereignty" and forgets compact; because it is plain—and your Lordships must perceive it—that, wherever he uses the word "sovereignty," he uses it to destroy the authority of all compacts; and, accordingly, in this very place before me, he declares that there is an invalidity in all compacts entered into in India, from the nature, state and constitution, of that empire. "From the disorderly form of its government," says he, "there is an invalidity in all compacts and treaties whatever." "When they had no treaty with him, they wished," says he, "to rob him; now I, who have a treaty and call myself his sovereign—I have a right to realise all their wishes."

Nature of the precedents quoted by Mr. Hastings.

Negotiations respecting the sovereignty of Bulwant Sing.

But the fact is, that his predecessors never did propose to turn out Bulwant Sing, but to have the country transferred to them as it has been since transferred to the Company. That is, that Bulwant Sing should pay his rents to the Company; that they should be made the intervening party. Now he had not, nor could he have, any such sovereignty as to supersede the agreement. His predecessors had no agreement with the man: they were negotiating with the Mogul, the sovereign of the country, about the transfer they actually did receive—a transfer of the sovereignty or superiority of Benares to them. There was no compact to hinder it; but they were obliged to give it back again: and accordingly they did give it back again to Bulwant Sing, with a guarantee against the depredations of Suja-ud-Dowla. "Now," says he, "what they wanted to do and wished to do, but

* Revised copy.

never succeeded in, I may do and ought to do of my own will. Whatever Suja-ud-Dowla would have done as a fine, I will do. [I will] penetrate into his bosom, to ask what was latent in that tiger's breast to do. And then I consider which of my predecessors have done any act of rapacity—no, not what they have done, but what they intended to do, what they wished to do—and that I have a right to realise." This is the doctrine upon which he went, and upon which, without accuser, without judge, without inquiry, he resolved to lay a fine of 500,000*l.* upon Cheyt Sing!

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But, to prove that he intended to be strict in it, he has laid down another very extraordinary doctrine here. He has laid it down as a standard of corruption, that, when a man uses threats of violence and declares that he means to take a certain large sum of money, if he takes anything less it is a proof of corruption;—"and therefore," says he, "I have shown by this testimony that I never intended to communicate with him, or to take less than the 500,000*l.*, which in my own mind, without judge, jury, or inquiry into the nature of the crime or the circumstances of it, I was resolved to exact. And," says he,

Mr. Hastings' doctrine of corruption.

"I shall make my last and solemn appeal to the breast of every man who shall read this,—whether it is likely or morally possible that I should have tied down my own future conduct to so decided a process and series of acts, if I had secretly intended to threaten or to use a degree of violence, for no other [purpose] than to draw from the object of it a mercenary atonement for my own private emolument, and suffer all this tumult to terminate in an ostensible and unsubstantial submission to the authority which I represented."

Contrast that with what you have just heard:—"If I ever talked of selling the Company's sovereignty to the Nawab of Oude, it was only *in terrorem.*" Then after he says, he never held out anything *in terrorem*, but what he meant to execute. He there tells you directly, in the face and teeth of that, that he did it *in terrorem.* But we will show you afterwards that he reserved to himself a power of acting *pro re natâ.* He declares that he would compound or not, just as answered his purposes upon this occasion:—

Inconsistency of his statements.

"And, therefore," he says, "I deny that the design of exacting a penalty from the Rajah Cheit Sing for his contumacious behaviour [was either 'wicked' or 'perfidious,' as is stated in the charge]. I admit that I did not enter it on the consultations, because it was not necessary. Even this plan itself of the fine was not a fixed plan, but to be regulated by circumstances, both as to the substantial execution of it and the mode."

Now, here is a man who has given it in a sworn narrative that he did not intend to have a farthing less. Why?

30 May 1794. "Because I should have menaced and done as in former times has been done—made great and violent demands, which I reduce afterwards for my own corrupt purposes." Yet he immediately afterwards tells you, in the course of the same defence, in another paper, that he had no fixed plan; that he did not know whether he should exact a fine at all—which is the substantial part of it—or what should be his mode of executing it. Then what shall we say to this man, who declares that he will think it a proof of corruption, if he does not exact to the full amount of what he has threatened, and, at the same time, finding that stuck hard upon him as a proof of cruelty and perfidy, declares he had no such intention at all? Here is a man putting up another to sale—putting a man to ransom himself, without stating from what evil he is to ransom himself; declaring he had a purpose in his mind of making him pay 500,000*l.*, which he communicated to no human being at the time, and when he himself declares that he never seriously intended it, that he kept it in reserve whether he should do it or not; that is, whether he should sell him to the Nawab of Oude, whether he should take his forts and castles and pillage him of all he had, whether he should raise 500,000*l.* upon him, whether he should accept the 220,000*l.* offered—which, by the way, we never knew of till long after the transaction—whether he should do any or all these things. He went up, by his own account, to Benares, without having resolved anything upon this subject in his mind.

His unjustifiable mode of proceeding against Cheyt Sing.

We have therefore here a magistrate and a judge going to exact a fine for delinquency, never calling upon the delinquent, never stating what was his offence, nor the punishment with which he was threatened, nor telling it to any creature, declaring to you that, if he had intended to take one shilling less, it would be a proof of his corruption; and yet, when he was [apprehensive] that that, which he would call a proof of his incorruptness, might with other people pass for a proof of his tyranny and oppression, he then falls back and declares, "I had no such intention at all!"

It is impossible that your Lordships, judging by any rule of the law of nations, by any rule of the law of nature—judging by the Mohammedan law, by the Gentu law, by the law that is written by God in the breasts of every one of us, should possibly think that such a proceeding was justifiable at all; especially when you find that man, at one time, accusing this person of rebellion—and for rebellion that might have been a just and perhaps a proper punishment—

but [at another time], acquitting him of rebellion, and declaring that it was for contumacy only; and then coming with the rebellion afterwards, as a proof that he was justified in these acts. 30 MAY 1794.

Subsequent discoveries no justification of antecedent acts.

Now I will assume the hypothesis that he knew there was a rebellion; that there was sufficient proof of it. He has no right to come afterwards and to declare that he acted in consequence of that rebellion, when he declared that he never knew anything of this rebellious purpose, till after the real rebellion had broken out;—"and then," says he, "I knew it." To that I answer, and your Lordships will every one of you answer, to what is obvious in it,—"You shall not, by a subsequent discovery of rebellion which you did not know, justify your acting upon a rebellion which you did not know, and had no document to prove, and which you did not believe yourself, as you have expressly told us here." Therefore, if the conspiracy which he falsely and groundlessly imputes to Cheyt Sing—if that wild scheme of extirpating the English out of India, which he imputes to him, had existed, think what a miserable circumstance we stand in as prosecutors and your Lordships as judges, if we admit that what a man discovers afterwards shall be made a justification by him of antecedent acts, founded upon the existence of what he had no sort of proof or knowledge or belief of;—for he declares he had no belief of it. Having formed all these infernal plots in his mind, uncertain which of them he should execute, uncertain whether he should deliver him up to his enemy, uncertain whether he should not take and pillage his forts, uncertain what sum of money he should take from him, he goes up into the country: but first he desires a delegation.

Illegal delegation of power.

My Lords, we have asserted in our Charge that that delegation and division of power, settled by him—for he was the majority in the Council, and Mr. Wheler was or could be nothing; his consent or dissent not signifying a farthing—[was illegal]. He gives to himself powers which the Act of Parliament did not give him. He went up to Benares with an illegal commission, civil and military. And to show [this], I shall beg leave to read the provisions of the Act of Parliament. I shall show what the creature ought to be, by showing the law of the creator; what the legislature of Great Britain meant that Governor Hastings should be, not what he was. It is the [statute 13 Geo. III. cap. 63], sec. 7.

30 May 1794. "And for the better management of the said United Company's affairs in India, be it further enacted that, for the government of the Presidency of Fort William in Bengal, there shall be appointed a Governor General and four Counsellors; and that the whole civil and military government of the said Presidency, and also the ordering, management and government, of all the territorial acquisitions and revenues in the kingdoms of Bengal, Bahar and Orissa, shall be and are hereby vested in the said Governor General and Council of the Presidency of Fort William in Bengal."

Now, we do deny that there is there contained, or can be contained, in any delegated power which is given to a whole body of people, a power of dividing by agreement that whole unity into two parts, each of which shall be a unity. We shall now read the pretended agreement between him and Mr. Wheler, that he, Mr. Hastings, should have every power, civil and military, in the upper provinces, and that Mr. Wheler should have them all in the lower provinces. And, to show you that it is impossible that such an agreement should be made, we must suppose, in the nature of things, a possibility of divisions of opinion: we suppose that no councillor has his power when he is not present. A majority supposes a body: you cannot suppose that they can be divided and separated; the whole body giving and distributing the powers that belong to the whole to a part of it. There is no such instance in law. There is no such instance in policy. It is a direct contradiction, and absolutely impossible; and you will see, by the agreement that they made to support each other, that they were themselves conscious of the absolute illegality of this proceeding. I shall give your Lordships good reasons afterwards. Here are the credentials given to the Governor General.

After giving himself the complete power of the whole Council, he makes this defeasance in favour of Mr. Wheler:—

Powers committed to Mr. Wheler.

"The Governor General delivers in the following minute.—In my minute which I laid before the court on the 21st of May, I expressed the satisfaction with which I could at this juncture leave the Presidency, from the mutual confidence which was happily established between Mr. Wheler and me. I now readily repeat that sentiment, and observe with pleasure that Mr. Wheler confirms it. Before my departure, it is probable that we shall in concert have provided at the Board for almost every important circumstance that can eventually happen during my absence; but if any should occur for which no previous provision shall have been made in the resolution of the Board, Mr. Wheler may act with immediate decision, and with the fullest confidence of my support, in all such emergencies, as well as in conducting the ordinary business of the Presidency, and in general in all matters of this Government, excepting those which may specially or generally be entrusted to me. Mr. Wheler during my absence may consider himself as possessed of the full

powers of the Governor General and Council of this Government, as in effect he is by the constitution; and he may be assured that, so far as my sanction and concurrence shall be, or be deemed, necessary to the confirmation of his measures, he shall receive them." 30 MAY 1794.

Now, here is a compact of iniquity between these two duumvirs. Each gives to the other the full, complete and perfect, powers of the Government; and in order to secure themselves against any evil that can happen, they mutually engage to ratify each other's powers: and that is a compact of iniquity that neither is nor can be [legally] made under the circumstances. It is impossible. You might suppose, if a great body of the Council were there, that they might delegate one of them to a distant part, with full powers; but the part that remains behind must have the whole powers. The whole powers were given to Mr. Wheler, and he takes a grossly illegal commission; and they have endeavoured by a compact of iniquity to bear each other out in it.

Instance of Lord Cornwallis.

They say this is not illegal, because, they say, Lord Cornwallis has had such a deputation. I must first beg leave to observe, that no man can justify himself in doing any illegal act—can justify any act, upon some other act which another man shall do subsequently to his act; because it may be done in consequence of his bad example. All men justify their acts in two ways; one upon the law—upon the right so to do; the other upon example, indicating that right and corresponding with it. But can any man justify his act, because ten or a dozen years after another man has done the same thing which he did at that time? Good God Almighty! was there ever heard such a thing? Suppose Lord Cornwallis has done wrong;—suppose Lord Cornwallis has acted illegally;—does that clear him? On the contrary, it aggravates his offence; because he has given an example of a corrupt and an illegal conduct to be followed by others. But Lord Cornwallis, if he had preceded instead of following him, [would not have] furnished a justification. There is no resemblance in the case. Lord Cornwallis does not hold his Government by the Act of 1773, but by a particular, special, Act made afterwards; and therefore to justify what is done under one set of powers by another set of powers, is the most wild scheme ever thought about.

Its inapplicability to the case of Mr. Hastings.

Lord Cornwallis was going to a war: he had two characters, Governor and Commander-in-Chief; and yet the legislature was sensible of the doubtful validity of a Governor General's carrying with him the whole powers of

30 MAY 1794. the Council, when he was legally Commander-in-Chief as well as Governor. Whereas Mr. Hastings was not Commander-in-Chief at all, though he had at the same time assumed the power of Commander-in-Chief. But Lord Cornwallis was Commander-in-Chief, going to a great war, where he might have occasion to treat with the country powers; and yet, so doubtful were the legislature, notwithstanding the largeness of his powers, which were of a different nature from those given to Mr. Hastings, that they passed a special act to confirm that delegation, and giving him a power to act agreeably to it. So that we do contend that Mr. Hastings had no right to assume the character of Commander-in-Chief at all. He was no military man. He had no right to it. He was not appointed by the Company to it; but what he took was a gross usurpation. He had no right, if the whole powers of Government were vested in him, and he carried himself and his Council on his horse, as it is said . . . . . . boasted that he had carried himself and his Council upon his horse:—if Mr. Hastings had his Council on his crupper, he could not have given larger powers to himself and Mr. Wheler. For if Lord Cornwallis, for instance, carried with him the power of Commander-in-Chief, and to conclude treaties with all the native powers, could he have left a Council behind him in Calcutta, with the same powers, and who might have concluded treaties of peace, in direct contradiction to those in which he was engaged? Therefore, I contend that this partition of power, which supposes an integral power in each councillor, is a monster that cannot exist. They felt that so strongly, that they were obliged to have recourse to the most foolish and absurd stratagem that ever was; which was, that they entered into a compact to bear out each other in whatever they did.

I am to remark to your Lordships, what has been suggested to me, that to legalise Lord Cornwallis's delegation, he was made Commander-in-Chief, as well as Governor General, by the Act, and that similar powers were given to him in all cases. So that here, if Mr. Hastings could quote an Act which gave him a power that this Act did not give to the Governor General and Council, had that Council that he left behind him a power to make another Commander-in-Chief, and make another treaty? No; this monster will not do. And that very monster is the thing here stated by Mr. Wheler and Mr. Hastings. They say, "it was convenient for me to do so." I answer, no delegated power has a

Plea of convenience urged by Mr. Hastings.

right to supersede the law and the principle of their own appointment, upon their idea of convenience. But what was the convenience? There was no one professed object upon which Mr. Hastings went up to Benares that might not as well have been done in Calcutta, other than this—that he would have been obliged to enter some part of his proceedings upon the consultations, whether he would or not. Had he a mind to negotiate with the Wazir? He had a Resident in his court: the Wazir had a Resident in his court. They had made solemn treaties before, without any Governor General carrying up a delegation of civil and military power. If it had been his object to break treaties, he might have broken them below, as he did the treaty of Chunar. Is there any article in the treaty of Chunar that he might not have made as well at Calcutta? Is there an article that he broke—for he broke them all—that he could not have broken at Calcutta? So that, whether pledging or breaking the faith of the Company, he might have pledged or broken it without ever stirring from the Presidency. I can conceive of a necessity so urgent as to supersede all laws, but I cannot conceive of a necessity that can make two Governors General with all the mutual powers.

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Its falsehood.

If he had a mind, for instance, to make Cheyt Sing pay a fine, as he called it, of five lacs, could not he make him do that at Calcutta? He had contrived to make him pay all the extra demands upon him. He knew that he could send Colonel Camac or somebody else there, with a body of troops, to enforce payment, and make him pay the charges. Why did he go to try experiments there in his own person? For this plain reason; because he might put such sums in his own pocket as he thought fit. It was not, and could not be, for any other purpose; and I defy the wit of man to find out any other way. Says he, "Cheyt Sing might have resisted if I were not there, and might have fled with this money, or might have raised a rebellion to prevent paying it." Why did you not then send an army there? I ask this;—whether, for the exaction of a great sum of money—justly or unjustly—Mr. Markham, with an army under the command of Colonel Popham, or Mr. Fowke, or any other Resident, were not much more likely to get that money than Mr. Hastings without any army at all? Therefore no necessity could exist for it. If he had an idea of the necessity of his presence there, he took the worst measures possible; for his own presence and his own conduct were the very cause of his being defeated in this matter.

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Rashness of the journey to Benares.

Then I find this man, thus armed with this illegal commission, undertaking an enterprise which he has since said was perilous, which proved to be perilous, and in which the existence of the British empire might have been ruined, as he has told us himself. That talisman which was the charm which kept all India in order—that kept under the government of a few Englishmen great, mighty and warlike, nations, would have been [broken], as I believe in my conscience, if he had been killed, or any other Governor General good or bad: infinite mischiefs would have happened. He went and put himself into the way of that danger, without any armed force worth mentioning at all, at the same time that he stated that Cheyt Sing had an immense armed force. When he demanded of him 2,000 cavalry, did he not suppose that he did keep an immense force? And did he [not], with four companies of sepoys poorly armed, no way provided, go to invade that country, and to force from that sovereign a sum of money which he had reason to think he would resist [the exaction of], and hazard his own being and the being of all his people to avoid [paying]? But says he, "I did not imagine he intended to go into rebellion." Then why not order him quietly from Calcutta to do it? "I did not imagine him going into rebellion, and therefore went unarmed." Then your presence was not necessary.

What did you do when you got there? Says he,—"I was alarmed; I found he surrounded my budgerow with two thousand men. That indicated an hostile disposition." Well, if he did, what precaution did you take against him? "Why, none." Then you are either a madman, a fool, or a determined declarer of falsehoods. Either you thought there was no danger and did not provide for it; or, if there was, you are the worst of all governors, the most improvident of your person, the most improvident of your officers, the most improvident of your country's honour, for going into the jaws of danger—for going with a weak force to provoke a man. Was the demand of 500,000*l.* not a thing likely to irritate a man, and likely to create resistance? Why, he declares it was. Mr. Markham and he had a discourse upon that subject. They agree to arrest him, because they thought the enforcing a violent demand might have caused him to fly to his forts, and a rebellion to arise in the country. Then he did know there was danger, as he was going to do a violent act; and yet, knowing all that, he sent one unarmed Resident to give the orders, and four unarmed companies of sepoys to support him. He provokes the people: he goads

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them with every kind of insult added to every kind of injury; and then he says, "I did not expect resistance." Why, you did expect resistance, or you would not have seized the Raja. Then, if you did, what means were taken to secure him? None: he had four unarmed companies of sepoys only there. Then, [says he], "I did not think it a disgrace to arrest him." We have proved, that to imprison a person who stood in the situation of a prince, or even in a much lower situation, is the highest dishonour and disgrace; and that he stated—and Mr. Hastings never denied it—that it would make him utterly unfit to execute his government ever after.

Disgrace inflicted upon Cheyt Sing by his arrest.

But there is a worse thing than all this, the wanton playing with the safety and being of the Company to exact sums of money from him, which is this:—who did he propose, when he imprisoned this man, to put to succeed him? A naib is a deputy; but when the principal is superseded and the deputy put up, the principal is reduced to a pensioner, and the whole power is in the naib. Who is that power in? Cheyt Sing told him, when he approached, that he was full of dread, that he was full of suspicions, of a person called Oossan Sing. Oossan Sing was a remote relation of the family. Mr. Hastings declared that the Raja expressed his dread of Oossan Sing. In a paper read to Mr. Markham, he declares he knew of Mr. Hastings' design entirely to supersede him, and to make this man his naib. Mr. Hastings does not deny it. He only says, that he does not intermeddle. With the pride and haughtiness and insolence that distinguish tyrants—not every tyrant, but some tyrants—he says, "I do not meddle with your family quarrels." And the moment Cheyt Sing is arrested, to show that his prophetic soul spoke truly, Mr. Hastings appoints this very man to be his master. Who is this man? We are told by Mr. Markham's evidence here that he was a man who had dishonoured his family; that he was the adulterer of his mother; that he was the disgrace of his house; that he was a person he could not trust: and Mr. Hastings, in giving Mr. Markham a large power to appoint naibs afterwards, expressly excepts this Oossan Sing from all trusts whatever, as a person totally unworthy of all trust. And yet this Oossan Sing, the disgrace and calamity of his family, and the dishonour of his house, the adulterer, as he is charged to be, with his mother—persons have caused Mr. Hastings and those—God forgive them!—who have followed him to doubt

Appointment of Oossan Sing as naib.

Disgraceful character of Oossan Sing.

30 May 1794. whether or no he was the true and legitimate offspring of his father—this very man was appointed, with this wicked and flagitious character, who was his particular enemy, to heighten his disgrace, to embitter his ruin, to make destruction itself dishonourable as well as destructive. Thus, when he imprisoned him, in the face of his subjects and in the face of India, he puts in his place, to supply it while he is imprisoned, no term being fixed for his imprisonment, this person, this disgrace of his house, this person whom Mr. Hastings knew to be deserving of no trust whatever, this person whom Mr. Hastings kept on purpose to frighten him, and whom he was obliged to depose on account of his misconduct, almost as soon as he named him, and to exclude him by name from all principal trust in that country. This was the very person he appointed to succeed him! We have heard of much tyranny, avarice and insult, in the world; but such an instance of tyranny, avarice and insult, was never known.

Formal charge exhibited against Cheyt Sing.

But did Mr. Hastings tell him, when he had imprisoned him, what he was to do? No such thing. He did not tell him, "Give me 500,000*l.* and then you are safe." He never made any demand upon him. He imprisoned him before he made any demand upon him. He exhibited a regular charge, digested into heads. When this charge was made to him, he called on him, in a dilatory, irregular, way of proceeding, for an answer. In that day, the man, under every difficulty and every distress, makes as exact, punctilious, an answer as could have been made to articles of impeachment in this House, to every one particular of the charge.

Order of proceedings adopted by Mr. Hastings.

Observe, my Lords, the order of the proceedings. He had determined to ruin him: he had determined to take his forts: he intended to put the dishonour of his family, and the disgrace and calamity of his country, to govern in his stead. To make gall itself more bitter, to make ruin more ruinous, to make disgrace more infamous, he put this man into that situation; and then, when he had done that, did he tell him, "You have to buy yourself out of this man's hands?" No! "You are a prisoner: deliver up all your accountants, all your clerks, all the persons who know anything of your treasures; and write to your kelledars, with whom your women and your treasures and honour are lodged, that they shall deliver them up to such as I shall name." When they added insult to insult, brutality to brutality, and when he retreated to the only refuge of the

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afflicted and distressed, to make his prayer to his God and our God, to make his last refuge—a vile chobdar comes to insult him when in that situation.

Justifiable resistance on the part of Cheyt Sing's people.

His subjects, who were alarmed at his imprisonment, who felt for a beloved sovereign that loyalty which we should all feel if our sovereign was so treated, whether a principal sovereign, as His Majesty is here, or a subordinate sovereign, as in another part of the world—upon principles such as these, what man with a spark of loyalty in his breast, what man regardful of the honour of his country, when he saw his sovereign imprisoned, and the other notoriously known to be appointed naib [could be a patient witness of such wrongs]?* —what shall we say?—they rose to do what we ought to have done; what all those who love their country, who love their liberty, who love their laws, who love their property, who love their sovereign, would have done on such an occasion. They looked on him as their sovereign. They saw nothing above him. They saw a name, a phantom, a thing of tyranny, come, without the least force in the world, to do the most violent and oppressive acts. This is a tyranny to which when men come with great armies, the power is a justification for submission; but when it does happen that a something of an unseen tyrant, with four miserable companies of sepoys, comes to execute all the horrible things that we have mentioned, then the spirits of men are roused; and that country raised itself in rebellion, as it ought to have raised itself in rebellion. Because every writer on the law of nations—every man that has wrote, or thought, or felt, upon the affairs of government, must write, know, think and feel, that a people so cruelly scourged and oppressed, both in the person of their chief and in their own persons, and menaced with all the horrible consequences which we shall show you followed, [were justified in their resistance].* They arose, and a short but bloody war followed.

Responsibility of Mr. Hastings for the murder of the sepoys.

We charge then this prisoner at your bar with the murder of our sepoys, whom he sent unarmed to such a dangerous enterprise. We charge him with the blood of every man that was shed in that place; and we call him, as we have called him, a tyrant, an oppressor and a murderer, in the largest and fullest sense of the words, because he was the cause of the murder of our English officers and sepoys, whom

* Revised copy.

30 May 1794. he sent unarmed, without letting them know the danger they were in by the violence of his transactions. He forfeited and sacrificed every one of their lives, as well as the lives of the innocent people of the country, whom he forced by this tyranny to do an act of duty, of obedience and affection, which all good subjects owe to every just sovereign. These are the iniquities we charge upon him.

Illegal exercise of arbitrary power by Mr. Hastings.

It is too absurd, but I will let your Lordships see upon what evidence, upon what ways and means, these people proceed. You know how they themselves desire to be treated, and you will see how differently they suffered that man to be tried. This man gave his answer: says he,—"You are upon the spot. It is happy for me. You can now inquire." No; not a word of inquiry. He calls his answer [presumptuous], though it is humble in the extreme. If there is anything faulty in this answer, it is the extreme humility and submission of it. If there was anything faulty when he met him in the boat, it was his extreme humility and submission. It is plain he would have almost submitted to anything. It is plain he offered 220,000*l.* to redeem himself from greater suffering. No man going into rebellion would offer 220,000*l.* of the treasures for maintaining that rebellion. No Government which was conscious of that rebellion would desire any man to arm and discipline 2,000 horse. No; the thing was resolved before. The plot was finished. That business was struck: and then, to crown the whole of their case, a charge [is brought forward]* which he ought to have made at first; and when he makes his defence, which was a clear, natural, easy, defence, denying some parts of the charge, evading and apologising for others, and desiring the whole to be inquired into,—"No;" says he, "that won't do, because I have arbitrary power."

I admit that, if his will is the law, he may take the charge before punishment, or punishment before the charge, or may make no charge at all. If his will is the law, all I have been saying is nothing. He may take every man's money—dishonour his wives—put the adulterer of his family over him. But I have endeavoured to let your Lordships see that in no country upon earth is the will of a despot law. It may be a wicked, flagitious, tyrannical, act, but in no country is it law.

It is stated in the Hedaya what is the duty of a sove-

* Revised copy.

reign, and what, I believe, has been almost invariably practised in that country—that, wherever suspicion of rebellion or a rebellion has been, the persons have been first admonished to return to their duty. This man has never been proved to be guilty of any rebellion at all. His rebellion was no other than an escape. He made an early submission. This law commands persons, while at the same time it does not tie their hands from acting with warm vigour and decision against rebels—it orders them to remove the cause, and to put an end to the misunderstanding, and to save the effusion of blood: a wise, proper and provident, law, which is, or ought to be, the law in all countries, and was the law in that country, before this poor unfortunate man was driven to fly, and his subjects to revolt. The very day after, by message after message, he endeavours to reconcile this cruel tyrant to him. "No; you have shed the blood of Englishmen, and never will I be reconciled to you at all." And he gives the reason of such an infernal [determination], which must make tyranny the very foundation of our government.

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Law of the Hedaya in the matter of rebellion.

Renewed offers of submission on the part of Cheyt Sing.

I do not say here upon what occasion people may or may not resist; but surely, if ever there was an occasion on which people, from every tie of love to their sovereign and regard to their country, might take up arms, it was this. And it must excite them to see a tyrant violent in his demands and weak in his power. The man made every offer of submission before war. He was in prison: he never refused or denied him anything. He had laid his turban in his lap three times. He delivered his life into his power; and at the very time of this he might have cut him off completely. Instead of that he flies. His subjects throng round him, and defend him as long as they are able. I do say that he ought to have heard him before—that he ought to have heard him after. He ought not to have made a rebellion. He ought to have listened to terms, and to have avoided the horrid effusion of human blood, and the utter destruction which we shall show you followed in that country.

I forgot a thing which will show in what manner they try people, to what peril the lives and fortunes of men are subjected in that country. It is in the printed Minutes, page 1608. And this they have given as subsequent proof—agreeably always to the retrograde order they have established in a court of justice—as subsequent proof of rebellion upon this occasion.

"To the Honourable Warren Hastings. Sir,—About the month of November last, I communicated to Mr. Markham the substance of a

Mr. Balfour's report

30 MAY 1794. conversation said to have passed between Rajah Cheit Sing and Saadat Ali, and which was repeated to me by a person in whom I had some confidence. The mode of communicating this intelligence to you I left entirely to Mr. Markham. In this conversation, which was private, the Rajah and Saadat Ali were said to have talked of Hyder Ally's victory over Colonel Baillie's detachment; to have agreed that they ought to seize this opportunity of consulting their own interest, and to have determined to watch the success of Hyder's arms. Some days after this conversation was said to have happened, I was informed by the same person that the Rajah had received a message from one of the Begums at Fyzabad—I think it was from Sujah Dowlah's widow—advising him not to comply with the demands of Government, and encouraging him to expect support in case of his resisting. This also I believe I communicated to Mr. Markham; but not being perfectly certain, I now think it my duty to remove the possibility of your remaining unacquainted with a circumstance which may not be unconnected with the present conduct of the Rajah."

Of an alleged treasonable conversation between Cheyt Sing and Saadat Ali.

Here is, through Mr. Markham, which is a second-hand testimony, given by Mr. Balfour—and it is dated the 28th of August, 1781, from Lucknow—a testimony of something that he had told Mr. Markham some time before. Now let us see when Mr. Markham communicated this, which is long after this transaction. "I communicated," he says, "in the month of November last"—this being August—"the substance of a conversation said"—observe *said;* not a conversation that had passed to his knowledge or recollection, or that any one said did really pass, but only this informant *said* that such a conversation had passed—"and which was reported to me by a person in whom I had some confidence." This conversation which was said to have happened—only *said* to have happened—was reported to him by a person whom he won't name, but in whom he had some confidence. So that this communication from an anonymous person in whom he had put some confidence, who only reports to him what was said by somebody else, was the mode of communicating the intelligence—to be left entirely to Mr. Markham—in this conversation, which was private, of the Raja and Saadat Ali, who were said to have talked of Hyder Ali's victory over Colonel Baillie's detachment, to have agreed that they ought to seize the opportunity of consulting their own interest, and to have determined to watch the success of Hyder's arms. "Some days after this conversation was said to have happened"—your Lordships observe always was *said* to have happened—"I was informed by the same person that the Raja had received a message from one of the Begums at Fyzabad—I think it was from Suja-ul-Dowla's widow—advising him not to comply with the demands of Government, and encouraging him to expect support in case of his

Treasonable message alleged to have been despatched by the Begum.

resisting. This also, I believe, I communicated to Mr. Markham, but not being perfectly certain, I now think it my duty to remove the possibility of your remaining unacquainted with a circumstance which may not be unconnected with the private conduct of the Rajah." 30 MAY 1794.

Here is a man that comes with an information long after the fact [deposed to],* describing a conversation that he had with Mr. Markham; no letter of Mr. Markham's ever appearing [to show] that he had communicated any such thing to Mr. Hastings. Indeed, why he did not must appear very obvious to your Lordships; for a more contemptible, ridiculous and absurd, story never was. Does Mr. Balfour come forward and tell him who this informant was? Not a word. Does he say, "He was an informant whom I dare not tell, upon account of his great consequence and the great confidence I had in him?" No. "I have some confidence in him." And [upon this evidence of a]* reporter of what another is said to have said, Mr. Hastings and his Counsel have thought proper to lay weight, to prove that the Raja had designed a rebellion which Mr. Hastings declared he did not believe that he had designed.

Idle nature of the reports.

But then, as they have done with regard to that arbitrary power, after it had been vomited out in one place they take it up in another: here it comes again. After he had declared that there was no rebellion intended and that he did not believe it, they declare that Mr. Markham had an information, which if he had communicated to Mr. Hastings, Mr. Hastings might have believed it. Good God Almighty! when you have heard the discussion here—when you see the circumstances, the principles, upon which this man is tried, what do you think of the principles upon which people in power in that country are disposed to disgrace and ruin people? This Mr. Balfour is in Europe, I believe. How comes it he is not produced by these people, to tell who and what his authority was, and what he knows of that transaction? They have never produced him; but have thought fit to rely upon this miserable, beggarly, horrible, circumstance, the very production of which is a crime,—that any man should produce that as evidence to ruin any man. And when you ask who this Mr. Balfour is?—he is a person who writes from Lucknow, in the country in which, under the pretended name of a military collector, he was desolating the

Omission on the part of Counsel to call Mr. Balfour.

* Revised copy.

30 MAY 1794. province of Rohilcund, which once was the garden of the world. Let him show you how he came to be a military collector at all; and let him, from the depth of that horrible system, cease to go and give such ridiculous, contemptible, evidence as this. See what this evidence of Mr. Balfour is. Your Lordships have it in page 1608 of your Minutes. And yet, if there is such a piece of evidence existing in the world, I shall admit that there is not one word we have said that your Lordships ought to attend to.

Barren results of the outrage upon Cheyt Sing.

Then, having disposed of Cheyt Sing in the manner we have heard of, let us see what he does. The man himself is punished: the 500,000*l.* is not got. He flies the country. He carries away his treasures. His forts are all taken, or much the major part of his forts taken. There is nothing found in them. He is gone; and the report of the country is, and it is so stated by Mr. Hastings, and so upon your Minutes, that he carried away with him in gold and silver about 400,000*l.* So that 400,000*l.* was totally lost, even as an object of plunder to the Company. Mr. Hastings lost his favourite object of plunder by his cruelty and violence; for, if he had listened to Cheyt Sing afterwards; if he had compromised with him before, when he offered the 220,000*l.*, and said, "Give me more;" if he had compromised with him when he went up; if he had told him what the demand was; if, after the rebellion had broken out, he had demanded and exacted a fine from him, you would not have had carried out of your provinces 400,000*l.* by Cheyt Sing in his flight—to be robbed, as we know he has since been robbed of it, by the Mahrattas and various others.

The necessity of vengeance advocated by Mr. Hastings.

But, says he, the British Government is kept up in such a way, that if a man once draws his sword he is never to be forgiven. You never are to forgive any man that has ever killed any one English soldier. You are implacable and resentful; and there is no maxim of tyrants which, from your weakness, you ought not to pursue. I pledge myself, if called upon, to produce the history of the Mogul empire. It is a series of forgiving men who have been in rebellion. And, in a new government, in a distant part of the country, where there is provocation, you ought to be ready to listen to terms of reconciliation even after war has been made, even though you had not given these enormous provocations to it. You ought to have done it, to show you are placable. It would be to your benefit and of the greatest advantage to your policy. Look to the case of Suja-ud-Dowla. You had

Advantage of an opposite policy.

Case of Suja-ud-Dowla.

driven him from his country. You had not left him in possession of a foot of earth in the world. The Mogul was his sovereign. It was in your power to dispose of his wazirate and every office he had in the world. The Mogul would have done it; for he hated him mortally, and was desirous of dispossessing him of everything. What did you do? Though he had shed English blood, you re-established him in all his power. You gave him more than ever he possessed. You had no reason to repent it. Your magnanimity and justice was held the best policy, and you were admired for it from one end of India to the other. But Mr. Hastings had other maxims and other principles. You are weak and are never to forgive. Indeed, Mr. Hastings never forgives. This man was weak and he persecuted him. Mr. Hastings was weak and he lost his prey. The one was destroyed by the superior force of the English arms collected, and Mr. Hastings lost his prey; for at the same time that he had the rapacity of a vulture, he had not the talons nor the beak of a vulture. He went to look for plunder; he was plundered, and all the country ravaged, and the prey gone. But, however, there was a hope that it existed in one corner. 30 May 1794.

Pecuniary loss incurred by Mr. Hastings' violence.

I state to you the account of the profit and loss of tyranny. Take it as an account of profit and loss. Forget the morality; forget the law; forget the policy; take it as a matter of profit and loss. Mr. Hastings lost the subsidy. Mr. Hastings lost the 220,000*l.*; and more than that he might have gotten. Mr. Hastings lost it all, and the Company lost 400,000*l.* which he meant to exact. It was carried from the British dominions to enrich its enemies for ever.

Plunder of the Begums at Bidjey-Gur.

However there was a place called Bidjey Gur, which Mr. Hastings declared to be the Raja's, though it was a place which he could not with any decency pretend a title to. He finds—what in it?—a great and powerful garrison of people like to make war and beset the country? No; he found it inhabited by two hundred women—by a garrison composed of eunuchs and poor feeble, invalid, militia. And this fortress, strong by its situation, weak by its garrison, was supposed by him to contain some money. Well, he endeavoured to get that money from that country. When all other means of rapacity had escaped him, he endeavoured to secure that. He sent, accordingly,—and you have it in your Minutes—the most cruel, the most atrocious, the most insulting, message to these unfortunate women, one of whom while he scandalises in one minute he declares to be a woman of amiable

30 MAY 1794. character in another. In one he treats her as a prostitute, in another as an amiable woman, just as serves the purpose of the hour. This woman was, with two hundred of her sex, in that place. Whatever money they had, Cheyt Sing visited the place before he went away and he left that money; which he thought would be secure to them, as their property and persons were wholly void of guilt—as they must be void of guilt. He would have carried that off with him, but he left it them as a deposit, and which we must presume was their property; and no attempt was ever made to prove it was not their property. They had no other property that could be found. There was their whole deposit, for themselves, their children, their women and dependants—for all the females of that once illustrious and next to royal family. Soldiers are naturally people of some generosity. Even when they are acting in any bad cause, they don't wholly lose the military spirit. But Mr. Hastings, fearing that they would not be animated with the same lust of plunder that he was, desirous of being revenged of these women, and to rob them for the good of the Company, stimulated them to go to that very atrocious robbery, and hopes that no composition will be made with these women; that one shilling will not be allowed of this, and that the soldiers should not be deprived of their booty. He does not trust them to act as men who have their fortunes to make, but he stimulates them, lest they should have the generous feelings and passions of soldiers, which are too apt to engage their minds even when engaged in wrong things.

Vindictive conduct of Mr. Hastings.

His directions to Col. Popham.

He writes this letter, dated Benares, the 22d of October, 1781, ten o'clock in the morning :—

"I am this instant favoured with yours of yesterday. Mine to you of the same date has before this time acquainted you with my sentiments respecting the Rannee. I think every demand she has made to you, except that of safety and respect for her person, is unreasonable. If the reports brought to me are true, your rejecting her offers or any negotiation with her would soon obtain you possession of the fort upon your own terms. I apprehend that she will contrive to defraud the captors of a considerable part of the booty by being suffered to retire without examination; but this is your consideration and not mine. I should be sorry that your officers and soldiers lost any part of the reward to which they are so well entitled; but I cannot make any objection, as you must be the judge of the expediency of the promised indulgence to the Rannee. What you have engaged for I will certainly ratify; but as to permitting the Rannee to hold the purgunna of Kerteck, or any other in the zemindary, without being subject to the authority of the zemindars, or any lands whatever, or indeed making any conditions with her for a provision, I will never consent to it."

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My Lords, you see the principles of this man, his nature, character and disposition, breaking out. These women have been guilty of no rebellion. He never pretended that they had been guilty of any crime but their wealth. And yet you see with what ferocity he pursues everything that belonged to that destined object of his cruel, inhuman, and more than tragic revenge:—"If you have made an agreement with them and will insist upon it, I will keep it; but for God's sake, don't make such an agreement! Don't give them anything. Suffer no stipulation for a provision for them at all. Do give them nothing. If you have made any capitulation with them, I will ratify it, but provision for them, none." So that his blood-thirsty vengeance would have sent out those two hundred innocent women to starve naked in the world. He stimulated the soldiers to ravage them. He denied any provision for them. He positively forbad it. He declares [of the soldiers] that the money was theirs; and he should be sorry if they lost a shilling of it. Here is a man declaring that the money was theirs, directly contrary to the Company's positive orders upon other occasions; and, knowing and having declared himself that prize money was poison to the soldiers, he declares that money to be theirs. He declares that they ought not to be defrauded of one shilling of it. He declares that those men that come in within a month, though people in rebellion, should be intitled to an indemnity. Respecting these women who had been guilty of no rebellion, you will see that he broke the public faith; that, while he was desiring the soldiers to make no capitulation, to allow them nothing, he was violating a proclamation of indemnity with these women, surrendering within that time. Supposing them rebels—which they were not—they were intitled to have the benefit of a complete indemnity.

His disobedience of the Company's orders respecting prize money.

His violation of the proclaimed indemnity.

["Whereas by the sedition of Cheit Sing, the country has fallen into confusion and alarms, assurances of protection are hereby given to the zemeedars and other inhabitants of this country; and they are hereby invited to repair to their former places of residence, and resume their usual occupations in perfect security: and, lest any should entertain apprehensions on account of their misdemeanours, it is declared that the past offences of all the inhabitants of this country who shall conform to this order are pardoned: and further, every zemeedar and aumil who shall, within the space of one month, repair to the presence of the Governor General, or to Major William Popham, Commander of the forces in the field, and make their submission, shall be pardoned; and such as, on account of the distance of the road, or any other valid reason, cannot attend in person, must send their vakeels for this purpose, with proper

30 MAY 1794. credentials. But be it known that the persons of Cheit Sing and his brother Soojaun Sing are excepted from this pardon; and the town of Gopeegunge, the inhabitants of which have been particularly active in this rebellion, and have committed many acts of sedition, and even bloodshed, on many of the dependants of this Government, shall be destroyed, and the inhabitants thereof punished, on a due enquiry into their crimes. Such persons as, availing themselves of those troubles, shall have plundered and oppressed the inhabitants of the city of Benares, and such as shall have committed murder on peaceable passengers, shall be rendered accountable for the same in the due course of justice."]

You see here, what is usual at the end of great troubles, an act of indemnity. You see it has, as usual, exceptions. It is supposed that those who are exempted out of it should be tried by law. The date of this proclamation is the 25th of September; the [surrender] is the 22d of October. So that it is clearly within the time that is given to those who have been guilty of the most atrocious acts of rebellion, to repair to their homes and enjoy an indemnity. These women never quitted their homes; and yet they were not to enjoy an indemnity. They were to repair to Major Popham; and yet Major Popham was not to receive them. He had a power to rob, he had a power to plunder them, a power to distribute the plunder, but no power to give them any allowance. Yet, at the same time, supposing these women had been in rebellion—supposing these women had been guilty of all the atrocities with which he was pleased to charge Cheyt Sing—these women were excluded from the act of indemnity necessary to pacify the country. Accordingly, no terms were offered to them that we know of. Much negotiation passed. At last, a treaty took place. It was agreed that they should march out in the night. It was agreed that they should have three lacs of rupees, or some trifle more;—the soldiers showed a generosity which Mr. Hastings never showed and never would suffer to be shown;—and the rest was divided as a prey among the army. And there ended all the effects of all the violence ef Mr. Hastings. The sum was about 238,000*l.*; no one single particle of which was ever proved to be other than the property of these unfortunate women. No part of it was proved to be Cheyt Sing's property, in any way whatever: no account—for we examined [into it] at your Lordships' bar—given that they ever had taken it. No report of a bukhshi, no report of a mutasaddi, nobody to ascertain to whom any part of that treasure belonged, except the unfortunate women who were found in the possession of it.

Terms of surrender agreed to by the Begums.

Disposal of their treasure.

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Then this was given to the soldiers. What does Mr. Hastings do? He is astonished and stupified to find so much unprofitable violence, so much tyranny and so little pecuniary advantage, so much bloodshed, without any profit to the Company. What does he do? He breaks his faith with the soldiers. He declares they have no right to it; they must refund it to the Company; and he institutes a suit against them. I forgot to tell your Lordships that these women were plundered, maltreated; their sex disregarded; violence committed against them by the followers of the army, added to all the degree of turpitude committed against them before, when they were got out in this manner.

Suit instituted by Mr. Hastings for the recovery of 200,000*l.* from the soldiers.

We are told that they got this 30,000*l.* Have we a scrap of paper for it? There is not a single receipt or article to verify their having received a sixpence of it! I am rather inclined to think they did receive it, or some part of it, but I do not know it; and I do not know a greater crime in public people than, when great sums of money are passing through their hands, that no kind of voucher whatever is given for it. That is the great vice of this Government. It was in the absolute discretion of Major Popham to give it them or not. Whether he did or not we do not know. But if these two hundred women went with 30,000*l.* or thereabouts, what would it purchase for them? It is probable the only use of their money would be, to subject them to the pillage of every savage little governor through whose country they passed. Driven out, without a pretence of crime, pillaged, insulted by the followers of the camp, they had this small pittance; and 200,000*l.* was divided by the army!

Negligence of the Indian Government.

Mr. Hastings, considering that he would make a bad account among the contractors in Leadenhall Street, who consider the laws, religion, morality, and the principles of state policy of great empires, only upon the question of profit and loss—finding he had a dismal account to give of great sums of money expended—after breaking faith with these unfortunate women, not suffering the officers to do what his proclamation ordered them to do, not suffering them to do it—for I do not accuse them of it—after he had done that, he finds that the soldiers had taken this for themselves and divided it. He breaks his faith then with the soldiers; because a constant breach of faith is a maxim with him. He claims it for the Company; and he institutes a suit before

30 May 1794. Sir Elijah Impey, who gives the money to the Company, and not to the soldiers. The soldiers appeal; and it is since the beginning of this trial—I believe very lately—that it has been decided by the Council that the letter of Mr. Hastings was not, as Sir Elijah Impey pretended, a private letter, because it had "Dear Sir," in it. Upon the appeal, it was determined for the soldiers. 200,000*l.* was distributed to the soldiers. 400,000*l.* was taken away by Cheyt Sing, for him to be pillaged of by all the barbarous nations through which he passed. And so ended one of the great resources of this great financier for a provision for the Company! The national honour is disgraced; all the rules of justice are violated; every sanction, human and divine, trampled upon; and all the Company got by it was the waste of their treasure, the loss of their honour, employing the troops at Benares which ought to have been employed in another part of the country, kindling up [rebellion]; and at last it ended in giving among barbarous nations such money as Cheyt Sing carried away, and giving a large sum of money to the soldiery, to whom Mr. Hastings declared such donations perfect poison! There is an end of all that project:—a country ruined, a noble family destroyed, subjects raised in rebellion quelled by bloodshed, pretended to be afterwards settled by indemnities; the indemnity not kept;—not kept with whom? Not with rebels, but helpless women, who are driven out of the country. After all, this cruel robbery was a robbery without a profit; leaving the Company nothing but the shame of such a government, such a governor, and such principles of proceedings. And here let us consider the profit and loss of this.

Decision of Sir Elijah Impey.

Its reversal on appeal.

Disastrous results of the attack upon Cheyt Sing.

My Lords, I am to state to you that he made a demand upon that country which, if it had been complied with in that year, would have, by his own account, left the Raja neither anything of the income of the country, nor anything, above 23,000*l.*, of all the treasures amassed there; and that he had the impudence to demand of a country so much more than it would produce, as to leave nothing to the family but about 23,000*l.* I will read it to you, and I wish it to be minuted, to verify the account. And first, I must make out to your Lordships that Mr. Markham and Mr. Hastings have stated the Raja's net revenue at forty-six lacs. The accounts that are before you state it at forty lacs and no more. Mr. Hastings declared that he did not think the country could safely yield more. It has been declared

Revenue of the Raja of Benares.

afterwards that it could not safely yield more; and you have an account upon your Minutes that it could not yield above forty lacs without ruining the country. Then, supposing that [be true], the country yielded not forty-six lacs, as they are pleased to state it, without a document or an article of account, but in which they are contradicted by all the papers of receipt, all the articles of account,—it never yielded more than forty. Mr. Hastings had it in his possession to squeeze it as he could. He had his own Residents to make the most of it; first Mr. Markham, then Mr. [Fowke, then Mr. Grant].* They all went into it, and endeavoured to do what they could with it. They never could screw it to more than that, by all the violent means they could employ. The ordinary subsidy, as appears in the printed Minutes, page 70, as paid at Calcutta, amounted to twenty-two lacs, 21,745 rupees. What I mean to prove by this paper is, that his joint demand of 500,000*l.* and all the subsidies that he demanded was more than all the hoards, except what I have excepted—than all the country yielded,—than the hoards, if they were valued at the utmost account—except 20,000*l.* or thereabouts. Now, when he says that Cheyt Sing carried away so large a sum with him, it is more than we know. It is more than can be proved; more than is probable. He had not in his precipitate flight any means, I think, of carrying away any such sum. But it will appear from the account plainly that he made a demand of more than the revenue of the country, leaving nothing for the subsistence of the Raja or his family, and that all the accumulation of the treasures of his family would leave him but 20,000*l.*†

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Demands made upon it by Mr. Hastings.

Then, my Lords, after plundering the country, after plundering the women, after plundering the treasury, he would have left the country, upon his demands [being satisfied], but 22,320*l.* We have made this as a calculation—not as a visionary calculation—of the avarice and rapacity of a man who describes countries to be enormously rich, in order that he may be justified in pillaging them. But the actual receipt of the country, under the most severe management that could possibly

* Revised copy.

† Mr Taylor read an abstract account of the revenue of Benares, by which it appeared that the net receipts for a given year were 42,91,896 sicca rupees. The detailed, as well as the abstract account, is printed in the Appendix to Mr. Hastings' Narrative of the Insurrection; Part I. Nos. 3 C—F.

30 MAY 1794. be, and every penny husbanded of it, is but forty lacs, and the money that is discovered is 600,000*l.* If he had taken the money, it would not have left one penny of revenue, even to give a day's bread to the Raja and his family. That is what Mr. Hastings demanded. What do we use this for? We use it to prove that he never made such demands upon principles of policy, upon principles of justice; that he never made them upon any hope of recovering anything advantageous to the Company; but that he made them upon two principles:—one, that, if he took it all, he might effectually ruin the family and send them wanderers through the world; [the other] to utterly ruin and destroy the country that was governed by a man whom he mortally hated and abhorred, and whom even his avarice was not able to reconcile to his cruelty. These are the things we produce. Therefore, as long as figures stand, as long as truth remains, as long as two and two are four, as long as there is mathematical—as long as there is arithmetical—demonstration, so long shall his cruelty, rage, ravage and oppression, remain proved, to the end of the world. When I have finished with this calculation, made carefully and elaborately as we can, in which, I believe, there are very few or no errors of any kind—a great deal of it is made upon calculations of his own, upon assumptions and data given by himself—when we have given you this, you may judge whether justice, just policy, or even desire of punishment of a criminal, influenced Mr. Hastings in this ruinous enterprise.

Malicious motives of the demands.

The next day when this Court meets, I shall undertake to develope the consequences of this wicked pillage, and show you that the rest of that family, whom he pretended to take under his protection, were ruined, undone and destroyed; and the beautiful country of Benares, which he has the impudence to represent to be prosperous, he left in such a state as would move pity even in any tyrant in the world, except this person who now stands before you.

My Lords, I have closed this last scene, and shall close the tragical business of Benares to-morrow; hoping to go through the rest fully as fairly, as elaborately, and, I hope as shortly as possible.

CONTINUATION OF THE SPEECH OF THE RT. HON. EDMUND BURKE, MANAGER FOR THE HOUSE OF COMMONS, IN GENERAL REPLY ON THE SEVERAL CHARGES; 3 June, 1794.

My Lords,—We are called to come forth, with an awful voice to which we shall ever [respond],—to come forth and make good our Charge. But, as it is a good while since your Lordships have heard that part of the Charge which we are now going to open, that you may the better apply to every part of it what I say, I shall take the liberty of requesting my worthy fellow Manager to read to your Lordships that part of the Charge upon which I am just now going to observe. 3 June 1794.

[*Mr. Wyndham reads*]:—

"That the said Warren Hastings, having, as aforesaid, expelled the said Cheit Sing from his dominions, did, of his own usurped authority and without any communication with or any approbation given by the other members of the Council, nominate and appoint Rajah Mehipnerain to the government of the provinces of Benares, and did appoint his father Durbedgy Sing as administrator of his authority, and did give to the British Resident, Mr. Markham, a controlling authority over both; and did further abrogate and set aside all treaties and agreements which subsisted between the state of Benares and the British nation; and did arbitrarily and tyrannically, of his mere authority, raise the tribute to the sum of 400,000*l.* sterling or thereabouts; did further wantonly and illegally impose certain oppressive duties upon goods and merchandise, to the great injury of trade and ruin of the province; and did further dispose of, as his own, the property within the said provinces, by granting the same or parts thereof in pensions to such persons as he thought fit. State of the Charge.

"That the said Warren Hastings did, some time in the year 1782, enter into a clandestine correspondence with William Markham, Esq., the then Resident at Benares, which said Markham had been by him, the said Warren

3 JUNE 1794. Hastings, obtruded into the said office, contrary to the positive orders of the court of Directors; and, in consequence of the representation of the said Markham, did, under pretence that the new excessive rent or tribute was in arrear, and that the affairs of the province were likely to fall into confusion, authorise and empower him, by his own private authority, to remove the said Durbedgy Sing from his office and deprive him of his estate.

"That the said Durbedgy Sing was, by the private orders and authorities given by the said Warren Hastings, and in consequence of the representations aforesaid, violently thrown into prison and cruelly confined therein, under the pretence of the nonpayment of the arrears of the tribute aforesaid.

"That the widow of Bulwant Sing and the Rajah Mehipnerain did pointedly accuse the said Markham of being the sole cause of any delay in the payment of the tribute aforesaid, and did offer to prove the innocence of the said Durbedgy Sing, and also to prove that the faults ascribed to him were solely the faults of the said Markham; yet the said Warren Hastings did pay no regard whatever to the said representations, nor make any inquiry into the truth of the same, but did accuse the said widow of Bulwant Sing and the Rajah aforesaid of gross presumption for the same; and, listening to the representation of the person accused (*viz.*, the Resident Markham), did continue to confine the said Durbedgy Sing in prison, and did invest the Resident Markham with authority to bestow his office upon whomsoever he pleased.

"That the said Markham did bestow the said office of administrator of the province of Benares upon a person named Jagger Deo Sing, who, in order to gratify the arbitrary demands of the said Warren Hastings, was obliged greatly to distress and harass the unfortunate inhabitants of the said province.

"That the said Warren Hastings did, some time in the year 1784, remove the said Jagger Deo Sing from the said office, under pretence of certain irregularities and oppressions, which irregularities and oppressions are solely imputable to him, the said Warren Hastings.

"That the consequence of all these violent changes and arbitrary acts was the total ruin and desolation of the country, and the flight of the inhabitants; the said Warren Hastings having found every place abandoned at his ap-

proach, even by the officers of the very government which he established; and seeing nothing but traces of devastation in every village, the province in effect without a government, the administration misconducted, the people oppressed, trade discouraged, and the revenue in danger of a rapid decline. 3 June 1794.

"All which destruction, devastation, oppression and ruin, are solely imputable to the above mentioned, and other arbitrary, illegal, unjust and tyrannical, acts of him, the said Warren Hastings, who by all and every one of the same was and is guilty of high crimes and misdemeanours."

[*Mr. Burke proceeded*]:—

Mr. Hastings' freedom of action.

My Lords, you have heard the Charge. You are now going to see the prisoner at your bar in a new character. You see him in his character of legislator. What characters you have seen him in before is in your Lordships' memory. We see now that he has everything before him. The object of his vengeance is completely destroyed, is wholly proscribed and in exile; his people butchered; his family—the residence and point of honour and affection to all the world—robbed, outraged in their persons, dishonoured in their sex, and finally, after all this robbery and all this dishonour, banished from their country. This you have seen; and here is a clear stage before him. His malice is victorious. He has well avenged the intended visit to General Clavering; he has well avenged the suspected information concerning his bribes to Mr. Francis. "Thou hast it now—King, Cawdor, Glamis, all!" But let us see how he manages this power which he has gotten in this manner. Let us see how this man justifies the free gifts of fortune. This man, my Lords, has made a complete conquest, without one plan in the cabinet, without one operation in the field. Whilst he lay trembling and skulking in the fortress at Chunar, helpless, resourceless, remediless in every point, the valour of the British soldiers, instigated by the objects of prey which he held out for them, in a month had made a conquest of Benares. Now let us see what this successor of Tamerlane, this emulator of Genghis Khan—how this man, who compares himself to Alexander the Great, acts in this new character.

Illegal appointment of Mr. Markham.

My Lords, the first thing that he does is to take, as the Charge mentions, as his agent and instrument in all this business, a person whom he has illegally appointed. It is a matter at the very outset to show that he defies the laws of his country; and in this very nomination he did particularly

3 JUNE 1794. defy them. Here are his reasons and his only reasons for his nomination. He chose to tell a branch of the legislature from whom originated that Act which, for the wisest and most prudent reasons in the world, ordered him to act publicly, and to act according to the order of the court of Directors—he says,—

> "I removed Mr. Fowke from Benares on political grounds, against the orders of the court of Directors, because I thought it necessary that there should be a man of my own nomination and confidence. I avow the principle, and think no government can subsist without it. The punishment of the Rajah made no part of my design in Mr. Fowke's removal, or Mr. Markham's appointment; nor was his punishment an object of my contemplation at the time I removed Mr. Fowke to appoint Mr. Markham; an appointment of my own choice, and a signal to notify the restoration of my own authority, as I had before removed Mr. Fowke and appointed Mr. Graham for the same purpose."

Avowed object of the appointment.

Here, my Lords, he does not so much as pretend that he had any other view whatever in this appointment of Mr. Markham but to defy the laws of his country. He did not pretend to say that it was for any other reason that he should have a man of his own nomination;—not as Governor General, not as a man obedient to the laws, not as one of the Council,—but "I must have him," says he, "of my own nomination:"—and why? "Because," says he, "it is a signal to notify the restoration of my own authority, as I had before removed Mr. Fowke for the same purpose." Observe, my Lords, that the greatest part of what I shall trouble you with is a reference to the principles upon which this man acts; and remember always that you have before you a question and issue of law.

I beseech your Lordships to consider what you are disposing of; that you are not disposing only of this man and his cause, but you are disposing of the laws of your country. You have made, and we have made, an Act of Parliament in which we say the authority is not so. He says, "It is my own authority. I defy the court of Directors, because I am resolved to give it as a signal of my own authority." He supposes his authority gone while these laws are obeyed; but, says he, "the moment I was enabled to get rid of the bounds and barriers of the laws, then I was restored"—as if there had been some act of violence and usurpation that had deprived him—"I was restored," says he, "to my own authority;" that is, to the authority, not of the Company; that is, to the authority, not of the laws of this kingdom, but to the authority of Warren

Hastings: an inherent, divine, right, I suppose, which that man has thought proper to claim as belonging to himself; something independent of the laws, something independent of the court of Directors, something independent of the Council:—my "own authority!" And what is the signal by which you are to know whether his authority is restored or not? By his obedience to the court of Directors? By his attention to the laws? By his regard to the rights of the people? No;—"It is for the notification of the restoration of my authority that I do purposely disobey the orders of the court of Directors. When you find the laws of the land trampled upon and the orders of the court of Directors despised, then my authority is restored." 3 June 1794.

I must observe the always close connection between crimes of every kind. He that is a tyrant will be a rebel. They are things that originate exactly from the same source. They originate from the wild, unbridled, lewdness of arbitrary power. They arise from a contempt of the laws and institutions that govern mankind. They arise from a contempt of public order. They arise from a harsh, cruel and ferocious, disposition, impatient of the rules of law, order and morality; and, according as their relation varies, the man is a tyrant if superior, a rebel if inferior. But this man, standing in a middle point between the two relations, the superior and inferior, declares himself at once both a rebel and a tyrant! Therefore we naturally expect that, when he has thrown off the authority of the laws of his country, he will throw off all other authorities. Accordingly, in defiance of that authority, he nominated Mr. Markham to that place and that power; and therefore every act of Mr. Markham is his, for which he is responsible—doubly responsible to what he would have been, if in the ordinary course of office he had named him; because a man is responsible for those acts done under his legal authority for which he does not punish the delinquent; but he is doubly responsible in this case, because he has assumed an illegal authority, which can only be justified by the use he has made of it. Now, having chosen his principal instrument and his confidential and sole counsellor, let us see how he can justify the acts done through him.

Connection between tyranny and rebellion.

After having the country entirely in his hand, his arena clean swept, you would imagine he would have wrote down to the Council at Benares an entire view of the state of things, have made them a complete statement of the revenue, the persons fittest to be put into office, and all those other matters.

Clandestine proceedings of Mr. Hastings.

3 JUNE 1794. Everything relative to it, one would have imagined, he would have made a full and complete statement of to the Council, that the court of Directors might have a clear view of the whole, before he had made a perpetual lasting arrangement, which might be, for what he knew, the ruin of the country. But the whole of this is clandestinely conducted, and there is not the slightest communication with the Council upon the business, 'till he had determined and settled the whole; and then the Council are in this complete dilemma;—either to submit to every wicked and arbitrary thing he had done, or to derange the whole of the country again, and to make a revolution, as dreadful and complete as that which he had made.

Interest inspired by the fate of exalted personages.

His task, I admit, was difficult; and those who pull down great, ancient, establishments, who wantonly destroy the ways and modes by which a country has long been settled and under which it has prospered, are the wickedest of men. It is not an individual which we are talking of here. We should be sorry for Cheyt Sing, or Durbejey Sing, or any individual; but it is wisely established in the constitutions of our hearts that mankind interests itself most in the fall and the fate of great personages. They are the objects of tragedy everywhere, which is addressed to our passions and our feelings;—and why? Because men of great place, and of great rank—men of great allowed, hereditary, authority—cannot fall without a horrible crash upon all the others that are about them. Such towers cannot tumble without the ruin of the cottages. Upon this principle, when the principal men who long governed in a country are cruelly destroyed, that country can hardly ever be re-established again. Therefore this man, who wantonly destroyed these, was bound to use double care and caution in everything he did.

Confiscation of the estates of the baboos.

What did he do? The first thing he did was to dispose of all the property of the country, as if it was his own. He first confiscated the whole estates of the baboos, the great nobility, to the amount of six lacs. Then he distributed the lands and revenues of the country according to his own pleasure. As he took away the lands from people, without our knowing why or wherefore, as he took away the lands from some, he gave them to others in the same arbitrary manner.

Foundation of charitable jagirs.

When we were inquiring into what jagirs Mr. Hastings thought proper to grant, we found among others, to our astonishment—though it is natural minds should take this turn

—that he founded several charitable jagirs. He gave a jagir to men to pray for the perpetual prosperity of the Company. I do not blame his Gentu piety, when I find no Christian piety in the man. Let him take refuge in any superstitions he pleases: it is something. In the Charge that you have heard read, we have charged that he disposed of the property of the country as if it was his own. Other jagirs were given as pious foundations, to pray for the perpetual prosperity of Mr. Hastings. Those he distributed at his pleasure; and those we contend he ought not to have distributed at his pleasure;—that he had no right to do so; that there was not a single acre of land that he gave away of his own private will that was not an act of robbery, either upon the public or upon some individual. Therefore we adhere to that part of the Charge. My Lords, to the public it is a most criminal act, whether he made a new foundation from his Gentu piety—not that he would be admitted into any of their castes—or from ostentation. Some of these pretended acts of munificence and piety he executed without any communication with the Council. 3 June 1794.

When he had thus disturbed the resources of the country, by distributing them according to his own private will, he then thought it would be proper to fix upon a person to govern the country: and such a person he chose. It does not appear that the people had lost by any revolt of Cheyt Sing the right, which was inherent in them, to be governed by somebody of his family. We find, however, that, by his own arbitrary will and fancy, he thought proper to nominate a man to succeed the Raja [who had no legal claims to the succession].*

Appointment of Mehipnerain to the zamindary of Benares.

My Lords, when he had resolved to substitute a new Raja instead of the old one, he made choice of a boy of about nineteen years old. He made that choice upon the principle of his being descended from Bulwant Sing, by the female line. He does not pretend to say that he was the proper and natural heir to Cheyt Sing. We will show you the direct contrary; that he said in his Defence, that:—

"When a new system was to be formed with the successor of Cheit Sing, who not being his heir had no claim of right, [I saw no objection to making the Company's interests my first principle of] action."

So, according to his own account of the matter, in nominating the Raja Mehipnerain to that government, as a

* Revised copy.

3 June 1794.

descendant of Bulwant Sing, he declares that he had nominated a man who had no right. Then the next thing is, to supply the want of right by the capacity and utility of the man who is employed. I will not say that that does or can, for one moment, supersede the right of any person; but it forms some degree of alleviation and palliation of it. He appoints this man without right to succeed, as he has told the House of Commons, in his Defence before them. He has told us that he had no right. Then let us see whom he names that had no right. He names a boy of nineteen years old to fill that office, and whom he considers as being in his minority. He chooses him a guardian—not according to any particular rule. He did not call the pundits, to see who was or should be his guardian. I must say he chose properly: he chose his own father. He could not choose a better guardian for his person, but a guardian for his government is another thing. For that office he should have chosen a man of vigour, capacity, diligence, and a man perfectly capable of performing the business in the great difficulties in which he was.

under the guardianship of his father Durbejey Sing.

He plainly, my Lords, tells you that he did not think the man himself anything very extraordinary; and he soon afterwards tells you that he had a great many incapacities. He tells you that he has a doubt whether he was capable of realising the revenue, with the assistance he had. Having destroyed all the ancient system, ruined the whole scheme and tenor of public offices, and used nothing but his own arbitrary will to supply them, he has great doubt in his mind about whether he will be able to realise the whole of the revenue; as your Lordships will find upon your Minutes.

But your Lordships will see upon what principles it was that he appointed him. When a new system was to be formed, the subsequent arrangements were mere internal corrections of a system which experiment proved to be imperfect. He therefore made an experimental system. He did not take the government as he found it. He did not take the scheme of offices as they were arranged to his hand; but he dared to make that most wicked and flagitious attempt which I have stated. He dared to make an experiment upon the happiness of mankind, through a large range of country which he had usurped in the manner I have stated. The experiment proved to be imperfect. How dared he to make the experiment? In what manner can he

Experimental nature of the new government.

be justified in playing fast and loose with the dearest interests and, perhaps, the very being of mankind? But says he—and here you find the whole secret of it:— 3 June 1794.

"An easy accumulation of too much wealth had been Cheit Sing's ruin; it had buoyed him up [with extravagant and ill-founded notions of independence, which I very much wished to discourage in the future Rajah. Some part therefore of the superabundant produce in the country I turned into the coffers of the sovereign, by an augmentation] of the tribute."

Augmentation of the tribute.

Who authorised him to make an augmentation of the tribute? But, above all, who ordered him to augment it upon this principle?—"I must take care he does not grow too rich. If he gets rich he will get proud." He has got a scale like that in the almanac. "I will take care he shall not be too rich." The first rule he lays down is, that he will keep this man in a state of poverty, because, if he grows rich, he will grow proud as Cheyt Sing did, and behave as he did. You see the ground and foundation of his whole proceeding and his whole spirit. Cheyt Sing was to be robbed. Why? Because he was too rich. Durbejey Sing is to be reduced to a miserable condition. Why? Because he should not grow rich. The whole of his system is that no man shall grow rich, lest, if he grow rich, he should grow proud; and if he grows proud he will seek independence. Your Lordships know that riches beget pride. I hope your Lordships will never be so poor as to cease to be proud; for ceasing to be proud you will not be independent.

Having resolved that Durbejey Sing should not grow rich, for fear he should grow proud and independent, which he will take care of, he orders him to pay forty lacs a year to the Company. The tribute has been 250,000*l.* before. He raised it all at once to 400,000*l.* Did he consult the Council about it? Did he show what the original collections were? Did he show them properly authenticated from any public office? It is a serious thing to draw out of a country from 250,000*l.* to 400,000*l.* a year. There were other persons than Durbejey Sing concerned. The whole country was concerned that the revenue should not be overrated; and for this plain reason;—if you overrate the revenue in the hands of the great general collector, you necessitate him to overrate every under collector of his. Therefore we state in our Charge, which your Lordships have just heard read, that he acted wickedly and abominably [in not] bringing the matter before the Council, to show that the jama in that case was not overrated; that it did not exceed the capacity

3 JUNE 1794. of the country to yield; and—what is so important—that it did not exceed the authority of the person placed at the head of it to exact. Before he took this step, he consulted none but Mr. Markham upon the subject. He put him, as we state, over the Raja. The Raja was nineteen years old. Mr. Markham undoubtedly had the advantage of him, for he was twenty-one; and he had five months' experience of the country:—that abundant experience of a country in which a man cannot put his foot that he will not put it upon some trap or mine, if he does not know the country. In reality, he put the whole country, as appears from the evidence, into the hands of Mr. Markham. We have no doubt of the capacity of Mr. Markham. He put a person so circumstanced, with no experience of the country, and of the age of twenty-one, over a man of nineteen, and with controlling power over everybody. We should not wonder, then, if he should fall into error.

Inexperience of Mr. Markham.

I do not like to impute to an inferior person, and much more to a young person, any error he may fall into; but the man who employs him and puts him into a situation which he has neither capacity nor experience for—that man is responsible for it. He is responsible for it, because he placed him in that situation only to show that he defied the authority of the Company. Well, we find forty lacs to be exacted from the country. He had no body of information before him, from proper documents, that it was one that would be fairly collected. Mr. Hastings not only did so, but he assigns to this boy emoluments amounting to about 60,000*l.* a year. Let us see how he justifies giving him these emoluments. It is to be justified upon an idea that it was necessary to the support of his dignity. Yet when Mr. Markham—who is the actor in all this business, as well as the witness against Cheyt Sing—when Mr. Markham comes before you, to give you an account of what he thought of Cheyt Sing, who continually, to all appearance, supported the dignity of his situation well, and, by their accounts, which I believe not ill-founded—but according to their accounts—was able to lay by, I believe, about 110,000*l.* every year, he says that a lac, or about a lac and a half, was as much as Cheyt Sing could spend. And yet this young creature, settled in the same country, and who was to pay 400,000*l.* a year, was authorised by Mr. Hastings to [reserve to his own use]* 60,000*l.* out of the revenue; that is, four

Emoluments of his office.

Their extravagance.

* Revised copy.

times as much as was stated by Mr. Hastings, on Mr. Markham's evidence, [to have been] necessary to support him. But everywhere your Lordships tread upon corruption. Why was such a large revenue given to him to support his dignity, when they say Cheyt Sing did not spend above a lac and a half in support of his dignity; though it is known he had great establishments to maintain, had made great buildings and great gardens, and—according to them—great preparations for war? 3 JUNE 1794.

Mr. Markham's estimate of the revenue of Benares.

Then we will imagine that they knew that the country could bear it. How did they know it? We will prove to you that, upon a paper presented here by Mr. Markham, according to the wasil-vaki, that is, the profit and loss, delivered in by Mr. Markham, the amount of the collections—the net collections—was about 360,000*l.* This is their own account, made up, as Mr. Markham says, by one of the clerks of Durbejey Sing, together with his Persian munshi—a very fine council to settle the revenues of the kingdom—in his private house. Yet, when they have dared to impose npon the neck of that unhappy man, and that unhappy people, a revenue of 400,000*l.*, it appears that the revenue produced, as they state it, but 360,000*l.* a year. Out of that he was to have 60,000*l.* for his own maintenance, which reduces it to 300,000*l.*; and out of that 300,000*l.* he was obliged to pay 400,000*l.* This was the sum which was, you see, cruelly to be exacted from him. But at this moment all that I consider is, his appointing a person of no authority in the country, with his authority weakened further by Mr. Markham's superintendence and by his own dread of other consequences. He appoints this man to pay 400,000*l.* out of 300,000*l.*, and get it as he could. So far I take it and assume it, on the ground—which is enough to sink Mr. Hastings to the bottom of perdition for this wicked act—of his own account. I show your Lordships that the net revenue is no more. We have nothing to do with the gross collections. We are speaking of what came to the public treasury, which was no more than this; and it was out of that public treasury that this payment was to be made, because he could have no other honest way of getting it.

When we come to examine what it was in reality, Mr. Hastings says that the country could well bear it, and that it has yielded it. Whether that is in the speech of his Counsel, or whether he has attempted it in evidence before you, I do not know. I believe it is only in the speech of

3 JUNE 1794. his Counsel—that the country could well bear it, that it has constantly paid it, and it has flourished under it. In answer to that, I refer your Lordships, first, to Mr. Markham's declaration and the wasil-vaki, which is in page 1750 of the printed Minutes. But now I am going to refer your Lordships to Mr. Duncan's report, in page 2493. They have declared that the country has constantly paid it; that it can well bear to pay it; and that it flourished under it. According to Mr. Duncan's public estimate of the revenue of Benares, the net collections of that very year that we are speaking of, when Durbejey Sing had it, and when Mr. Markham and his Persian munshi and a clerk in his private house made this estimate, without any documents, or with whatever documents, God only knows—for nothing appears on the record of the transaction—they yielded in that year but 340,000*l.*, instead of Mr. Markham's account of 360,000*l.* But take it which way you will, whether you take it at Mr. Markham's 360,000*l.*, or Mr. Duncan's 340,000*l.*, your Lordships will see that, after taking 60,000*l.* for his own private expenses, he could not realise that revenue.

Mr. Duncan's estimate.

Your Lordships have in evidence before you an account of the produce of the country for, I believe, full five years after; from which it appears that it never realised during that five years, the forty lacs, or anything like it; but yielded between thirty-seven lacs and thirty-nine lacs, or thereabouts: but it never has amounted to the forty. On what calculation did he go? Where were all the clerks and mutasaddis, and all the men of business in that place, who could have given him complete information upon it? We do not find the trace of one of them. All our information is Mr. Markham's munshi, and some clerk of Durbejey Sing's in his private counting-house; and, when they deliver the net collection to you in that place, they make it 40,000*l.* short of what Mr. Hastings reckoned it, besides the 60,000*l.*, and besides the sum of money he gave away in jagirs, and charities, and some other things. Says he:—"There is the confiscation of the estates of the baboos; that I rate at six lacs." We have traced the accounts, we have examined everything, with that sedulity which belongs to the House of Commons, who have the care of the public revenues, and we have not found one trace of this; so that, if there did exist four lacs, that was put into the pocket of somebody. He admits that he did confiscate them, but they do not anywhere appear. He supposes that those six lacs would be lightened upon the

Average for the five following years.

Deficiency in the collection.

Company by the four lacs of confiscations which he thought proper to make; but whether these confiscations were ever made, what they yielded, or to whose service they were applied, appears nowhere in any account whatever. Then I leave your Lordships to judge of that. 3 JUNE 1794.

Overrating of the country.

But then Mr. Hastings was in an error. He was in an error for a long time. He was always immersed in accounts, always loaded with business. Mr. Markham was the same. He had formed expectations of the country, which Mr. Markham gave him early notice were overrated; and he had formed some of those extravagant, wild, expectations which his avarice suggested to him when he was going to plunder. We allow that avarice over calculates the hoards it is going to rob. If any one is going to plunder a banker's shop, his avarice naturally, when he is running the risk of his life, leads him to imagine there is more in the shop than there really is. But, when he was in possession of it, why did he not know and understand it better? Why, he did understand it better; for he declared his opinion was that this forty lacs was an overrating of the country. You have it, in page 294 of the printed Minutes, that he was of opinion that it was overrated, that the country could not continue to pay it, at the very time he was [imposing] it.

Condition of remission proposed to the Raja.

But, says he, if the Raja exerts himself, and continues for some years the regular payment of that which he says he thinks he is not able to pay, then he will, in consequence of that, grant him a remission. So the Raja was told that he was overrated. He knew that he was overrated. He told him he was to expect some time or other a remission. And what, my Lords, was the merit upon which he was to obtain a remission? The punctual payment of that which Mr. Hastings declares he is not able to pay, and which he could not pay without ruining the country, betraying his own honour and character, and acting directly contrary to the duties of the function in which Mr. Hastings had placed him! Therefore here you see Mr. Hastings [exacting a revenue], not only in the direct teeth of Mr. Markham's own calculation made upon the spot, in the direct teeth of the statement made by Mr. Duncan upon the spot, not [upon a mere] calculation, but having the accounts, regularly, officially and exactly, before him—one supposing it to be 40,000*l.*, and the other 60,000*l.* above the mark. Mr. Hastings himself is of opinion he has overrated it. His condition of remission at some future time is the payment of what he knows could

3 JUNE 1794. not be paid; and, consequently, he was authorising this unfortunate man to use every irregular manner of getting it. This is what he has done. Has he done this by making his strength equal to the task? No; the direct contrary. In proportion as he augments the burthens of any, he takes away their strength. There is not one of the external marks of honour which attended the government of Cheyt Sing which he did not take away from him; and consequently, when this new man came to his new authority, he was to extort a revenue payable to the Company of from twenty-five lacs to forty lacs, with a reduced authority, opinion and consequence, in the country. Why, that was alone a sufficient reduction [of authority].* He was young and inexperienced; that was another. His father was known to have no credit or authority in the country; that was another. But Mr. Hastings took great care he should have none at all, for he appointed him to act under the immediate direction of Mr. Markham—as our Charge states. Consequently Mr. Markham was the governor of the country. And can any man, with a reduced, contemptible, divided, authority, venture to strike the bold and hardy strokes—to use the vigorous means, that should be vigorous without oppression—to realise such an enormous revenue as was laid upon this man?

His reduced authority.

It appears, by a letter produced here by Mr. Markham—upon which kind of correspondence I shall take the liberty to remark hereafter—Mr. Markham tells you, in his letter, that he lived in a perpetual apprehension that a person called Oossan Sing was intended as his successor. Mr. Markham, in one part of his correspondence, tells you that he did not intend to hold the government. Why? Upon a point of right; namely, that he had it not on as advantageous terms as Cheyt Sing. But he tells you in another letter—and which is a much better key to the whole transaction, a great deal—that he was in dread of a certain person, Oossan Sing, whom Mr. Hastings kept ready;—for you will, in the course of this transaction, see, there is not a man in India of any consideration against whom Mr. Hastings did not keep a kind of pretender, to keep him in continual awe. This Oossan Sing Mr. Hastings brought up with him. This man Cheyt Sing deprecated and dreaded, as the cause of all his terror.

His dread of Oossan Sing.

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* Revised copy.

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We find, first, that Mr. Hastings did nominate him to be the naib of the country; that is, to have the government of the country in his hands. Mr. Hastings did not immediately choose Durbejey Sing, but Oossan Sing, to be the first person who was to hold that government. When exactly he was removed we cannot tell. But he was removed, and removed dissatisfied, and continued a pretender and continual solicitor to get this. Thus the poor man, put in by Mr. Hastings, overawed by Mr. Markham, was obliged to perform tasks beyond his strength, and Oossan Sing, who had destroyed the family before and who was the mortal enemy of the family, was there, like the devil, his continual accuser. This man was, as Mr. Markham tells you, one of the causes of his continual dejection and despondency. But it appears that not one of these circumstances was ever laid before the Council. The whole passed between Mr. Hastings and Mr. Markham. What is more: we have found Durbejey Sing invested; we find him in possession of the country, on the terms and with the power which I have taken the liberty to state to your Lordships.

Changes introduced into the commercial system of the country by Mr. Hastings.

Mr. Hastings having thus disposed of the landed property of the country, and thus disposed by his arbitrary will of the revenues of it, how did he proceed with the rest? He found a most flourishing country in agriculture, a most flourishing country in trade, and he was resolved, as he had made an experiment upon the government, upon the revenues, upon the reigning family of the country, and upon all the landed interest—he was resolved to make as bold an experiment upon the commercial interest. Accordingly he sat down—and before I sit down I shall state the matter more particularly to you from authorities—he changed every part of the revenuc system. I mean that part of the revenue, the kists, which affect the trade and commerce, which are the life and soul of a country. He, without any other aid that we know of except Mr. Markham, sat down to change and alter the whole commercial system of that country. And accordingly he did alter it in every point, and upon the same arbitrary principles on which he went before, namely, his own will. We are told, indeed, that he consulted bankers and merchants on it; but, when your Lordships know what has happened, you will easily see whether he did or not.

Your Lordships will see what has happened through the mischief of arbitrary power. [The man who exercises] arbitrary

3 June 1794. power is a helpless, miserable, creature. By the very principle upon which he proceeds, no man dares to tell him a truth; no man dares to give him any information that is disagreeable to him; he knows that his life and fortune depend upon it. The man who lives in the exercise of arbitrary power condemns himself to eternal ignorance. This man, stupidly ignorant, without resource and without help, but in his own arbitrary power and the constant companions of ignorance—incapacity and blind presumption—alters the whole system of duties in the country; and, as we shall prove by and by, in consequence of it, ruined the whole trade of the country; for he left not one part of it that he did not entirely destroy. This we are now stating only. I will state the effects afterwards, when I state the general effects upon the country; but here I only state his bold assumption, without one word of communication with the Council at Calcutta, where they might have considered the whole, might have looked at these trading regulations and examined them. He made them all without consideration, and put them in that situation that they must directly, as I said before, [either confirm his acts or again undo]* everything.

His neglect of the Council.

This man had by his opium contracts set all vigilance asleep. By his bullock and other contracts he had provided for a number of concealed interests, both abroad and at home; and then, when he had got that Council to be nothing but a Council to give a formal ratification, long after the things had been done and that they could not remove them, then he told them of all these things he had done; and he sent these miserable reasons, which it is impossible that any man can judge of, in the first instance, without knowing anything of the country.

Mischievous effects of the alterations.

Mr. Markham has told your Lordships a very curious thing. When I asked him concerning the laying on of those duties that he laid on of five *per cent.*, that the two *per cent.* before was collected along with that two *per cent.*, and that that five *per cent.* was laid on in such a manner as utterly to extinguish the trade, and [when I proceeded] to ask whether it was not, in effect and substance, five times as much as they had paid before, what was his answer? That many plans are considered in the closet that look specious and plausible, but they will not hold when they come to be tried; "and," says he, "these duties never were exacted."

* Revised copy.

Now we shall prove first, that it was an abominable thing in Mr. Hastings to withhold from the Council the ground and means of knowing what the real operation of his taxes was. He laid the duties upon a visionary theory, in his own closet. How else could he do? He has no knowledge of trade. He cannot keep an account, as he says. He has no memory when he comes to you. You find him a man possessed of no one quality fit for any act whatever. But the mischief of it is this:—when he states, "I have made such a change; instead of charging five *per cent.* by the bullock load, I charge so much *ad valorem*;" without knowing the circumstances under which trade is carried on, that looks very plausible; but when you come to the actual state of the trade, it is not five *per cent.* and the difference between that and two *per cent.* paid another way, but it is a different mode of estimating the commodity, and it amounts to five times so much! And this never could appear to the Council, to your Lordships, or to us, if we did not, as an exemplification of this cursed mode of arbitrary proceeding, show you his total ignorance of the subject, and his total indifference about the event of the measure he was pursuing. And when he began to correct it, he never took any means whatever to put his second regulations into execution, but left all the mischievous project to rage in its full extent. So far with regard to the trade of the country. I have shown your Lordships how he managed the private property; how he managed the revenues of the country; how he managed the government of the country and the trade of the country. I have done with the business of the trade; yet, when I come to that part which I wish your Lordships to consider, in the scheme of what I have taken the liberty to mention, in that scheme I shall show you the results and effect of all these things, which arose from the direct consequences of his violent and arbitrary measures, and which he must have foreseen. I have now to show you how he proceeded upon his new system of establishment.

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Mr. Hastings' ignorance of the principles of trade.

The Council were totally ignorant of the effect of everything that passed at Benares, further than according to his representation, as he made it to them. The revenues continued to be regularly, fairly and punctually, paid, month by month, kist by kist, [until the month of July];* but, as the country had suffered, and as the Raja had wished, the

Ignorance of the Council of the transactions at Benares.

* Revised copy.

3 June 1794. larger kist was thrown on the last kist or instalment, the country paying monthly by instalments;—and that 80,000*l.* was thrown upon the month of August, the last month. You will ask how they came to burthen one month beyond the rest. They had two motives for it: one was, that by that time they would hope to have the advantage of the view of the year's collections, and then they could better judge whether he could claim the remission with which Mr. Hastings had flattered him, at the end of the year, or not; and he had another reason, which we know must influence people in that condition—and does; that, out of the rents of the next month that was coming on, he might have paid up the balances of that, and have secured from the country—which every one knows had suffered very considerably by the revolt that was in it, and by a drought that prevailed that year—the means of paying it out of the assets of the next.

The tribute permitted to fall into arrear.

But mark the course that was taken. The moment he came to the heavy month, and which was heavy to him, and of which Mr. Hastings says, "I had rather he had desired to divide it;"—but, he says, he threw it upon that month, first, that he might have the whole of the year; and next, that he might have—when he knew that Mr. Hastings was sensible himself that he was overrated—that he might have the advantage of a collection of a more favourable year, to help out the year in which he had gone backward—these were good and wise reasons—Mr. Hastings said, he made that regulation for him at his own desire. If he had made it at his own desire, he must have seen the motive, and ought to have taken care that he should not be oppressed and ruined by complying with his own desire. So passed the year 1781.

Clandestine correspondence between Mr. Markham and Mr. Hastings on the subject of Durbejey Sing.

As early as the month of April 1782, we find by the evidence produced—and I wish your Lordships seriously to advert to this—produced for the first time at your bar, not appearing in the Company's records, not appearing in the book of the Benares correspondence, not appearing in any form to which the Commons could have access, unknown to the Directors, unknown to the Council, unknown to the Residents at Benares, unknown to the searching and inquisitive eye of the Commons of Great Britain, drawn out of Mr. Markham's pocket,—a series of private correspondence which he carried on with Mr. Hastings, unknown totally to the Council. After Durbejey Sing had been named, after

a government had been established, after Mr. Hastings had quitted that province wholly and abandoned it, and that there was no reason why correspondence should not be public, Mr. Markham carried on, from the month of April, a correspondence full of the bitterest complaints against Durbejey Sing, and which he has produced for the first time to your Lordships. These clandestine complaints—these means of proceeding to the ruin of a man, without the knowledge of his true and proper judges—we produce to your Lordships as a heavy aggravation of our Charge, and a proof of wicked conspiracy to destroy this man. For, if he was in daily danger of falling back, if he was in danger of falling when the heavy kist came upon him, the Council ought to have known every step of these complaints, for Mr. Hastings then had done with these plans. 3 June 1794.

I ought to have remarked to your Lordships a second era, which is an era of clandestine correspondence between Mr. Hastings and Mr. Markham. After Mr. Hastings had quitted Benares, and had nothing but as Governor General to do with it, after his extraordinary and, as we contend, illegal power had completely expired, the same clandestine correspondence was carried on. He considered Benares as his private property; and, just as a man acts with his private steward about his private estate, without any communication with the public, he receives and answers the series of complaints which began in April and continued till the month of November. He never communicated one word of this till the 29th of November, and until he had completely settled the fate of this Durbejey Sing. This clandestine correspondence we charge, as we charged it before against him, as an act of rebellion; for he was bound to lay before the Council the whole of his correspondence relative to the revenue and to all the affairs of the country. Therefore we give it in another sense, not only as rebellion against his duty and against the orders of the Company, but as a wicked plot to destroy this man; for if the Council could not know it, where was the man to make his defence? All these letters, almost, seem to be directed to him in his private capacity. Not one of these charges and exculpations were communicated to the Council. I repeat it, and wish to press it upon you, that a great part of them were never communicated, nor ever heard of at all, till Mr. Markham was examined in this hall! Illegality of such correspondence.

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The first idea that we have of the business is when Mr. Hastings had retired, for the benefit of the country air, to a place called Nia Serai, upon the Ganges. The whole time of his being in Calcutta he never communicated anything of this to them, nor did he, after he had gone to take the air in the country, communicate anything at all, till the business was finished. You will see what that business was. I said the 29th: it was the 27th of November, 1782. The letter is in the printed Minutes, page 298:—

Partial communication to the Board of the charges against Durbejey Sing.

"The Governor General.—I desire the secretary to lay the accompanying letters from Mr. Markham before the Board, and request that orders may be immediately sent to him concerning the subjects contained in them. It may be necessary to inform the Board, that on repeated information from Mr. Markham, which indeed was confirmed to me beyond a doubt by other channels, and by private assurances which I could trust, that the affairs of that province were likely to fall into the greatest confusion from the misconduct of Baboo Durbedgy Sing, whom I had appointed the naib. Fearing the dangerous consequences of a delay, and being at too great a distance to consult the members of the Board, who I knew could repose that confidence in my local knowledge to admit of this occasional exercise of my own separate authority, I wrote to Mr. Markham the letter to which he alludes, dated the 29th of September last, of which I now lay before the Board a copy. The first of the accompanying letters from Mr. Markham arrived at a time when a severe return of my late illness obliged me, by the advice of my physicians, to leave Calcutta for the benefit of the country air, and prevented me from bringing it earlier before the notice of the Board."

Mr. Hastings' assumption of separate authority.

I am to remark, upon this part of the letter, that he claims to himself an exercise of his own separate authority. He had no delegation—no separate authority. He was a member of the Board; obliged to do everything in it; and yet he speaks of an act of his own separate authority, that is, the act of Mr. Markham—turning out this man whom he had appointed to be naib, "fearing the dangerous consequences of a delay, and being at too great a distance to consult the members of the Board." This letter is written on the 27th November, 1782. These complaints had been increasing, growing and multiplying, upon him from the month of April preceding, and he had never given the least intimation of them to the Board. Now he says,—"The time won't wait for it: I am obliged to use my own separate authority. Justify me in what I have done." Whereas he had time enough—months!—for the whole matter to be laid before the Council. [He next goes on to say]:—

"It had indeed been my intention, but for the same cause, to have requested the instructions of the Board for the conduct of Mr. Markham,

in the difficulties which he had to encounter immediately after the date of my letter to him; and to have recommended the substance of it for an order of the Board." 3 JUNE 1794.

He promised Mr. Markham that, if he did this violent act, which Mr. Markham proposed and which Mr. Hastings ordered, he would have an authority for it from the Board. But, however, he did get him no such authority. Why? Because he was resolved, as he has told you, to act by his own separate authority; and he has told you that it is a signal of his authority, that he disobeys the orders of the court of Directors and defies the laws of his country. Now what does he recommend to the Board?

Severe measures against Durbejey Sing advised by Mr. Hastings.

"That the Board will be pleased to confirm the appointment which Mr. Markham has made, and to direct him to exact from Baboo Durbejey Sing, with the utmost rigour, every rupee of the collections which it shall appear that he has made and not brought to account; and either to confine him at Benares, or send him a prisoner to Chunar; and to keep him in confinement until he shall have discharged the whole of the amount due from him."

Then, my Lords, here you have plainly—what appears in every act of Mr. Hastings—[resentment of] some personal injury:—

"I feel myself, and may be allowed on such an occasion to acknowledge it, personally hurt at the ingratitude of this man, and the discredit which his ill conduct has thrown on my appointment of him. The Rajah himself, scarcely arrived at the verge of manhood, was in understanding but little advanced beyond the term of childhood;"—

this is his character of the man whom he put to govern that country;—

"and it had been the policy of Cheit Sing to keep him equally secluded from the world and from business. As he was allowed"—says he—"a jaghire of a very liberal amount, to enable him to maintain a state and consequence suitable both to the relation in which he stood to the Rajah and the high office which had been assigned to him, and sufficient also to free him from the temptation of little and mean peculations, it is therefore my opinion, and I recommend, that Mr. Markham be ordered to divest him of his jaghire, and re-unite it to the malguzzary, or the land paying its revenue through the Rajah to the Company.

"The opposition made by the Rajah and the old Rannee, both equally incapable of judging for themselves, do certainly originate from some secret influence, which ought to be checked by a decided and peremptory declaration of the authority of the Board and a denunciation of their displeasure at their presumption. If they can be induced to yield the appearance of a cheerful acquiescence in the new arrangement, and to adopt it as a measure formed with their participation, it would be better than that it should be done by a declared act of compulsion. But, at all events, it ought to be done."

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The previous execution of the measures.

My Lords, it was done! He had ordered the man to be dismissed. He had ordered him to be imprisoned. He had ordered his jagir to be confiscated. All these things were done before; and he now resolves to take the whole of it upon himself.

Then he presents two letters—and no more—that he had received, of recent date, from Mr. Markham, complaining of the conduct of this Durbejey Sing. Says he:—"He has dishonoured my appointment: punish him." Why not punish Mr. Markham? And why are you not, my Lords, to punish Mr. Hastings, who dishonours your appointment, who appoints insufficient men—boys—improper to manage such concerns; and when they fail, before their accounts are made up, before a single step is taken, judicially or officially, to convict them of any transaction, orders them into prison, and their private estates to be confiscated? The Commons of Great Britain claim from you that no man shall be imprisoned, till a regular charge is made upon him and regular answers received from him upon the subject; that no man shall be imprisoned on a matter of account, till the account is settled between them. Therefore, we do say that this act, beginning without authority of the Council, was in itself illegal; that it was unjust, violent and oppressive, as upon a matter of account, before it was settled and stated *pro* and *con.*, to imprison the man, and consequently to disable him from settling the account with the numberless sub-accountants he might have; that that was a wicked, flagitious, abandoned and abominable, act; and Mr. Markham had his share in this, as far as a young man and an instrument could have a share in it.

Illegality of the proceedings.

Implication of Mr. Markham.

Mr. Hastings says:—

Delegation of authority to Mr. Markham.

"I need not tell you, my dear Sir, that I possess a very high opinion of your abilities, and that I repose the utmost confidence in your integrity."

Perhaps he had reason for both; but he did not leave him to the use of either. He put him to execute arbitrary tasks, and he was to bear him out by his power in these acts:—

"From your long residence at Benares, and from the part that you have had in the business of the zemindary, you must certainly best know the men who are most capable and deserving of public employment. From among these I authorise you to nominate a naib to the Rajah in the room of Durbedgy Sing, whom, on account of his ill conduct, I think it necessary to dismiss from that office. It will hardly be necessary to except Oossaun Sing from the description of men to whom I have limited your choice, yet it may not be improper to apprise you that I will on no

terms consent to his being naib. In forming the arrangements consequent upon this new appointment, I request you will, as far as you can with propriety, adopt those which were in use during the life of Bulwant Sing; so far, at least, as to have distinct offices for distinct purposes, independent of each other, and with proper men at the head of each; so that one office may detect or prevent any abuses or irregularities in the others, and together form a system of reciprocal checks. Upon that principle, I desire you will in particular establish, under whatever names, one office of receipts and another of treasury. The officers of both must be responsible for the truth and regularity of their respective accounts, but not subject in the statement of them to the control or interference of the Rajah or the naib; nor should they be removable at pleasure, but for misconduct only. At the head of one or other of these offices I wish to see the late buxey Rogoorber Dyall. His conduct in his former office, his behaviour on the revolt of Cheit Sing, and particularly at the fall of Bidjeygur, together with his general character, prove him worthy of employment and of the notice of our Government. It is possible that he may have objections to holding an office under the present Rajah. Offer him one, however; and let him know that you do so by my directions. Do not wholly neglect the Rajah:"— 3 JUNE 1794.

he says, with regard to the Raja whose interest was concerned in it:—

"consult with him in appearance, but in appearance only. His situation requires that you should do that much, but his youth and inexperience forbid that you should do more."

So that he has completely put the whole government into the hands of a man who had no name, character, or official situation, but that of the Company's Resident in that place. What is the office of a Resident? It is to reside at that Court; to give the Council notice of the transactions that are going on there; and to take care that the money be regularly paid, kist by kist. Instead of that, Mr. Hastings has illegally invested him with the total authority of the Company to name whom he pleased to the government of it, with the exception only of Oossan Sing, and to drive out the man who had possessed it under his own appointment, and which could not be revoked but by the Council. Yet, in his private letter—this is previous to the communication of any of these matters to the Council—he orders the one to be removed, confiscated and imprisoned; and [as regards] the other, he has ordered him to appoint to the government of that country, which is found so arduous and difficult, which Durbejey Sing was not able to collect the revenues in—to appoint whom?—to appoint whom he pleased! Why, Mr. Hastings had no power in himself to appoint any person, but through the medium of the Council; much less could he delegate that power to Mr. Markham.

Office of Resident.

Dissection of Mr. Hastings' letter.

JUNE 1794. He had then had great experience of the country, to be sure. "Name any man you please to the government, and I shall confirm him. I give you that authority, and you will trust me I shall get you an authority from the Council for it." With respect to Durbejey Sing, he adds:—

"He has dishonoured my choice of him."—

My choice of him!—

"It now only remains to guard against the ill effects of his conduct, to detect and punish it. To this end, I desire that the officers to be appointed in consequence of these instructions do, with as much accuracy and expedition as possible, make out an account of the receipts, disbursements and transactions, of Durbedgy Sing, during the time he has acted as naib of the zemindary of Benares; and I desire you will in my name assure him, that, unless he pays at the limited time every rupee of the revenue due to the Company, his life shall answer for the default. I need not caution you to provide against his flight and the removal of his effects."

He says he will detect and punish him; but the first thing he does, without considering whether he has got the money or no, he declares he will have every rupee paid at the time, or otherwise his life shall pay for it.

Is this the language of a British Governor—a person appointed to govern—who is subject to the dominion of this kingdom by law; ordering him first to be imprisoned—punished—to be deprived of everything; then an inquiry to be made; and then, pending that inquiry, declaring that unless he pays at the limited time every rupee of the revenue due to the Company, his life shall answer for it? And accordingly his life did answer for it. This unhappy man was put into prison. But, after this order for his removal, Mr. Markham enters into the particular charges, in his letter from Benares, 24th of October, 1782:—

[Margin: Imprisonment of Durbejey Sing.]

"I am sorry that my duty obliges me to mention to your honourable Board my apprehensions of a severe loss accruing to the honourable Company, if Baboo Durbedgy is continued in the naibut during the present year. I ground my fears on the knowledge I have had of his mismanagement, the bad choice he has made of his aumils, the mistrust which they have of him, and the several complaints which have been referred to me by the ryotts of almost every pergunna in the zemindary. I did not choose to waste the time of your honourable Board in listening to my representations of his inattention to the complaints of oppression which were made to him by his ryotts."

[Margin: Charges subsequently brought against him by Mr. Markham.]

My Lords, think of this condition of your Government in India; a Resident at Benares exercising power, not given to him by virtue of his residency, given to him only by the

private orders of the prisoner at your bar—what is it he does? He says, he did not choose to trouble [the Council with the reasons which induced him] to remove a man, upon account of them, without hearing him. The Council was not to know them. Why did he not choose to waste the time of their honourable Board in listening to them?—"You are not to listen to the complaints of people. The honourable Board is not to have its time wasted in that improper manner. Without the least inquiry or inquisition into it, the man must be imprisoned, must be deprived, threatened with his life, and must have all his property confiscated." This is the condition in which people stand, acting under the authority of Great Britain! The country is under the management of Mr. Hastings, by the usurpation of an authority to himself—of Mr. Markham, by an usurped delegation of an usurped authority; and they dispose of the country, dispose of the family, dispose of the revenue, of the lives, fortunes and honours, of the subject, without any judicial—without any official—inquiry whatsoever. These are the crimes for which the Commons call for justice, knock at the breasts of your consciences, and would think themselves dishonoured for ever if they did not bring them before your Lordships, and with the utmost energy call for your Lordships' vindictive justice, in the fullest extent in which you can bestow it.

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Omission of inquiry into them.

Think what this man's condition was. It appears that, without any solicitation of his own, he was put into a situation which Mr. Hastings thought it impossible for him to execute; after lowering his weight, and consequence, and authority, he then orders him privately to be thrown into this prison, and then an inquiry to be made into it. What sort of inquiry should be made your Lordships will see. While this was going on, Mr. Markham tells him that, in consequence of the orders which he had received, he had put him first into a gentle confinement. Your Lordships saw what that confinement was: we will not enter into it. A man of his authority put into confinement! We have shown he was unfit for business in his confinement. He had accounts to settle with the whole country; can a man in gaol, dishonoured and reprobated, recover anything? He is put in gaol to recover money, in a situation of unfinished accounts that he has with a country of the extent of Benares:—

Uniform injustice of Mr. Hastings' conduct towards him.

"I thought proper that Durbedgy Sing should be put under a gentle confinement, until I shall receive your honourable Board's orders for any future measures."

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Mr. Markham begins therefore, encouraged by Mr. Hastings, to put the man into a gentle confinement, previous to his receiving any orders. I deny that a Resident at Benares has a right to do that. The whole of this correspondence begins in page 298 and continues through pages 300, 301, to 305; but your Lordships will be in the train of it by following those pages. Now we cannot expect that any man should be imprisoned, should suffer these hardships, and at the same time kiss the rod and say,—"Upon my word I have deserved it all." No; nobody will think such a thing. All mankind revolts at oppression, if it is real; and punishment, just or unjust, no man willingly submits to. And we find that these people did not submit to it. We find they used all the power which was left to them; that is, to remonstrate and petition. And, accordingly, they presented two arzis, or petitions. They are in page 303. The first is from the Rani. As for Raja Mehipnarain, I doubt whether he had any means of making any communication. Therefore we will read the petition of the Rani, the widow of Bulwant Sing, in favour of her child and of her family, cruelly treated in this manner:—

Petition of the Rani.

"From the Rannee, widow of Bulwant Sing; received the 15th December, 1782:—

"I and my children have no hopes but from your Highness, and our honour and rank are bestowed by you. Mr. Markham, from the advice of my enemics, having protected the farmers, would not permit the balances to be collected. Baboo Durbedgy Sing frequently before desired that gentleman to show his resentment against the people who owed balances, that the balances might be collected, and to give ease to his mind for the present year, conformably to the bequests signed by the presence, that he might complete the bundobust. But that gentleman would not listen to him, and having appointed a mutseddy and taveeldar, employs them in the collections of the year, and sent two companies of sepoys and arrested Baboo Durbedgy Sing upon this charge, that he had secreted in his house many lacks of rupees from the collections; and he carried the mutseddies and treasures with their papers to his own presence. He neither ascertained this matter by proofs, nor does he complete the balance of the sircar from the jaidaads of the balances. Right or wrong, he is resolved to destroy our lives. As we have no asylum or hope except from your Highness, and as the Almighty has formed your mind to be a distributor of justice in these times, I therefore hope from the benignity of your Highness, that you will inquire and do justice in this matter, and that an aumeen may be appointed from the presence, that, having discovered the crimes or innocence of the Baboo Durbedgy Sing, he may report to the presence. Further particulars will be made known to your Highness by the arzee of my son Rajah Mehipnerain Bahader."

Petition of Mehipnerain.

"Arzee from Rajah Mehipnerain Bahader; received 15th December, 1782:—

'I before this had the honour of addressing several arzees to your

presence, but from my unfortunate state not one of them has been perused by your Highness, that my situation might be fully learnt by you. The case is this:—Mr. Markham, from the advice of my enemies, having occasioned several kinds of losses and given protection to those who owed balances, prevented the balance from being collected; for this reason, that the money not being paid in time the baboo might be convicted of inability. From this reason all the owners of balances refused to pay the malwajib of the sircar. Before this, the baboo had frequently desired that gentleman to show his resentment against the persons who owed the balances, that the balances might be paid, and that his mind might be at ease for the present year, so that the bundobust of the present year might be completed; adding that, if next year such kind of injuries and protection of the farmers were to happen, he should not be able to support it." 3 June 1794.

Mr. Hastings' neglect of previous petitions from the Raja.

My Lords, I am to remark to your Lordships upon these petitions, and particularly to remark upon the last:—"I before this had the honour of addressing several arzees to your presence, but from my unfortunate state not one of them has been perused by your Highness." My Lords, if there is any one right secured to the subject, it is that of presenting a petition and having that petition noticed. That right grows in proportion to the power and despotic nature of the government under which he acts; for, having no sort of remedy from any fixed laws, every part of which Mr. Hastings destroyed, even to the traces and appearances of them, in that country—which is on your Lordships' Minutes—except only for the police of the single city of Benares—and that very ill provided too; but, [Mr. Hastings] having destroyed every trace of law and government, nothing remains but complaint, and prayer and petition. But it appears that this complaint, this prayer and this petition, was not the first, but was only one of many which Mr. Hastings took no notice of, entirely despised, and never would suffer to be produced to the Council; and the Council, till this bundle of matter came before them, neither knew the complaint of Mr. Markham against Durbejey Sing, nor the complaint of Durbejey Sing against Mr. Markham.

His omission to inquire into Durbejey Sing's complaint against Mr. Markham.

My Lords, it is a serious complaint. When the man was put in prison by Mr. Markham—observe the person that put him in prison, and the charge in this arzi is, that that man was himself the cause of this very failure for which he imprisoned him—then what does Mr. Hastings do, as a judge between man and man? He takes the charge of that very man; puts him in prison upon that charge; and, when he has the complaint of the superior before him to hear his cause, he refuses to take any notice of it and never communicates it to the Council. My Lords, if there were nothing

3 June 1794. else but this to mark the treacherous, perfidious, nature of his conduct, it would be sufficient. He has two persons before him ; one in the ostensible care of the revenue of the country; the other, Mr. Markham, assuming the authority over him ; and when there are complaints that the occasion of his accusation has been furnished by Mr. Markham, instead of granting redress, he dismisses the complaints against Mr. Markham with reprehension, and sends the complainant to rot in prison, without ever once inquiring, or giving himself the trouble to state to Mr. Markham those charges against him, and desiring him to clear himself from them. Now is this to be borne in any civilised society—that any such controversy should exist between two such persons, and that you should inquire into and punish the accusation of one without listening to the complaint of the other, or inquiring so much as whether it was true or false?

Then Mr. Hastings writes to Mr. Markham, in this state [of things], without ever troubling himself one word about the counter complaint :—

"The measures which you have taken with Baboo Durbedgy Sing are perfectly right and proper, so far as they go ; and we now direct that you exact from him, with the utmost rigour, every rupee of the collections which it shall appear that he has made and not brought to account, and either confine him at Benares or send him prisoner to Chunar."

He employs the very person against whom the complaint is made to imprison the complainant. He approves of all that he has done ; and leaves him at his option, not only to keep him a prisoner at Benares, but to send him out of Benares, to imprison him in the fortress of Chunar, which is the infernal place to which, when he has a mind to extort money from people, he sends them. Just like the case in Homer, "I will send you to such a tyrant, in such a place,"—"I will send you to Chunar. I desire your life may be forfeited, if you do not pay me the last rupee of your collections."

Arrears due from Durbejey Sing.

Let us see how his debt stood at the time of his imprisonment. Of the kist which ought to be eight lacs, there were two, and but two, paid. Then there remained six lacs. Mr. Markham does not controvert the fact in the smallest degree. There were four which were due to him, as he stated, in the country ; and then he stood responsible, upon the rigour of his demand, but for two lacs. Two being paid, and four in arrear, there remained but two. These two lacs which remained, he says, should be exacted with this

extreme rigour. Were there any pains taken to know the fact whether these four lacs were due to him, or any pains taken to collect them? No one appears in the transaction. And yet a man is to be punished for a failure of two lacs who has paid two, and who has assets abroad upon a supposed heavy balance, when the whole balance of a heavy, overrated, year amounted to but two lacs. But is it proved that he received that? No such thing! Mr. Markham engages himself to prove that he has received forty lacs; a serious engagement for him to prove. But when he comes to produce to you the wasil-vaki, he never pretends that he received more than thirty-six lacs; which will make it appear, if he gave him credit for the four lacs abroad, that he could not have received forty lacs, when the country yielded him but thirty-six. Therefore, they were oppressing him for money they knew he never had received; and they pursued and persecuted him by every way in which they could, without aiding him in any way that we can know. But, in order to recover his balances, they kept him in this rigorous prison. 3 JUNE 1794.

Mr. Markham goes away and Mr. Benn succeeds him; and he acts upon exactly the same principle. He declares that the sum of money which he exacted was not exacted upon the principle of his ever having received it, but upon the principle of his having agreed to pay it. Says Mr. Benn,—"I have a Jew's bond. If it is in your bond we will have it; if not, we will have it out of your flesh; and whether you receive it or no we don't care a farthing." My Lords, they let him out to settle these accounts. They give it in arbitration upon the bonds, not upon the receipts; upon his engagements to pay the 400,000*l.*;—upon these cruel terms, allowed by Mr. Hastings himself to be extravagant; and from a man who charged Mr. Markham with having usurped his whole authority, governing entirely the country, leaving him no means for recovering his balances, and even being the author of the stop of several of them. Rigorous views of Mr. Benn.

Mr. Benn says, "We demanded it from him in consequence of his bond." Then, when there was but one lac and a half, one would think that common charity, that common decency, that common regard to the decorum of life, would have hindered Mr. Hastings from imprisoning him again. But he was imprisoned again. He continued in prison till Mr. Hastings quitted the country; and there he died—a victim to all this enormous oppression. In the meantime, had they Second imprisonment and death of Durbejey Sing.

3 June 1794.

any other means of getting it? It appears that the [family of the Raja]* never received one single shilling of the 60,000*l.* that was given for their maintenance. They stated that they mortgaged their own natural hereditary estates. [The Residents]* confiscated everything that belonged to Durbejey Sing; and out of that immense sum of six lacs what account have you? None. Therefore that must in some abominable and corrupt way or other have been sunk. You must inquire of it. You must convict these men who proceed in this way; first, by punishing people, then afterwards pretending to account with them, and then, when they pretend to account with them, making them refund the money which they pretend they had received, admitting tacitly, and more than tacitly, that they had not received the money; and then, afterwards, claiming it upon the bond, and confiscating their private fortunes. And [thus Mr. Hastings] lets a miserable man, elevated to the highest degree of rank in that country, die, by imprisoning him a second time for the cruel demand made upon him. They found after his death abundance of effects? [No, my Lords, they did not find anything.]* They ransacked his house. They examined everything that he had in and out of prison. They searched and scrutinised everything. They had every penny of his fortune. I believe, though I cannot say with certainty now, that they seized upon the whole, and the man died a bankrupt; and it was not pretended he had ever embezzled any part of the Company's money.

Confiscation of his property.

Therefore, in the name of this Durbejey Sing, in the name of his afflicted family, in the name of the country people thus oppressed by an usurped authority, that took the revenue from him and yet charged the people with all the conduct of it, in the name of a man respecting whom justice has been thus outraged, we call upon your Lordships' justice. Durbejey Sing is over. That tragedy is finished. A second Raja of Benares is gone. I don't mean to say that miserable puppet which he says was, when arrived at manhood, in a state of childhood, but the person who represented the dignity of the family. He is gone. He is swept away. He is given up as an inferior person to the resentment of Mr. Markham or Mr. Hastings. He is not heard of: there is an end of him.

Succession of Jagger Deo Sing.

Then a new order begins. Mr. Markham is authorised to choose whom he pleases, with the exception of Oossan Sing.

* Revised copy.

Mr. Markham accordingly exercises this power, and does choose a person, allied to the [zamindar], called Jagger Deo Sing. Our charge calls him Jagger Deo Seng, and so it is written in the paper from whence we took it. From the time of the confinement of Durbejey Sing to the time of his being put in the government, in whose hands were the revenues of the country? Mr. Markham himself has told you, at your bar, that they were in his hands; that he was not only the person that named the man, but that he had held the revenues; and he was answerable, of course, for them all that time. The name of zamindar of Benares was still continued to this miserable pageant; but the very name was soon entirely fallen out of use. It is in evidence before your Lordships that his name is not even so much as mentioned in the proceedings; and that the person who really governed was Mr. Markham. The person who governed ostensibly was Jagger Deo Sing, and the name of the zamindar was passed to utter oblivion. Therefore the government was taken completely and entirely out of the hand of the person who had a legal right to administer it; out of the hands of his guardians; out of the hands of his mother; out of the hands of those who were his nearest relations, and those whom of course he could trust; and put into the hands of a man of whom we know nothing, and never heard anything before, till we heard that Mr. Markham, of his own usurped authority, authorised by the usurped authority of Mr. Hastings, without the least communication with the Council, put him in possession of that country.

3 June 1794.

Disuse of the title of zamindar.

Mr. Markham administered the revenues alone himself, without the smallest authority for so doing, without the least knowledge of the Council, till Jagger Deo Sing came in. Did he then give his authority up? No such thing. The settlement of Jagger Deo Sing was made with the concurrence and joint management of Mr. Markham. He conducted the whole. The settlements were made, the leases and agreements with farmers, all were regulated by him; that is, by Jagger Deo Sing and him. I need not tell you that I believe Jagger Deo Sing was not a person of very much authority in the case. Your Lordships would laugh at me if I said he was. But they were regulated and made by Mr. Markham. But, whether they were or not, it comes to the same. If they were improperly made and improperly conducted, Mr. Hastings is responsible for the whole of them; for he appointed a person who had little experience,

Practical supremacy of Mr. Markham.

3 JUNE 1794. who was young in the world—and that is the excuse I wish to make for any gentlemen of that age;—he appointed him and gave him at large a discretionary authority to name whom he pleased. But we know that he took part himself in all his settlements and in all his proceedings.

After this business was done, after this man was appointed, instructed by Mr. Markham, who had all his agreements, all his settlements, made under his express approbation, most probably by his command, Mr. Markham desires leave from Mr. Hastings to go down to Benares. I imagine he never returned. He comes to Europe. And there ends the scene of viceroy and delegate Mr. Markham, and begins the reign of Mr. Benn and Mr. Fowke. These gentlemen having just the same power that Mr. Markham had—not one jot less that I know of in any way—they were persons that were, and ought to be, made by Mr. Hastings responsible for any part of their proceedings. I will not tell you anything of the reign of Jagger Deo Sing, or rather of Mr. Markham, Mr. Benn and Mr. Fowke, but read to you what Mr. Hastings has thought proper to represent the state of the people to be, under that government which he left to them discretionally to appoint. If your Lordships will have the goodness—it will save you trouble, for it will supersede all observation of mine upon it—hear Mr. Hastings' own representation of the effects of his own government, by a person authorised by him, who gave no security for his good behaviour, who had no responsibility of any kind attached to him. Hear what an account Mr. Hastings gave, when he went up to Benares upon another wicked project, as he passed through that country, to revolve and look back upon the ruin that he had made. Think of the situation in which he saw Benares the day he entered into it. He had seen it beautiful, ornamented, rich; an object that envy would have shed tears over for its prosperity; that humanity would have shed tears for, seeing the comfort and satisfaction enjoyed by mankind there; a country flourishing in cultivation in such a degree that the soldiers were obliged to march in single files through the fields of corn, to avoid damaging the country; a country in which Mr. Stables has stated that the villages were thick beyond all expression; a country where they pressed round their sovereign, as Mr. Stables told you, with joy, triumph and satisfaction. Such was the country, in such a state, and under such a master. See

Departure of Mr. Markham.

Appointment of Mr. Benn and Mr. Fowke.

Prosperity of Benares under the native princes.

what it is under the British Government; and then see whether the Commons are or are not right in pressing this subject upon your Lordships for your decision. Then see and know, and let all this great auditory know, what it is that this criminal [has done], who has represented to you that Benares was in a flourishing condition, who had the impudence so to represent it to your Lordships at your bar, in defiance of the evidence we have, as he knew, under his own hand, in defiance of his Counsel's representation here; and who, in all the false papers that have been circulated to debauch the public opinion, has stated that we, the Commons, have given a false representation as to the state of the country under the English government. 3 June 1794.

[The letter is dated], Lucknow, the 2d April, 1784. Addressed to the honourable Edward Wheler, Esq., and signed "Warren Hastings." It is in page 306 of the printed Minutes:—

Mr. Hastings' account of its ruined condition under the British government.

"Gentlemen,—Having contrived, by making forced stages, while the troops of my escort marched at the ordinary rate, to make a stay of five days at Benares, I was thereby furnished with the means of acquiring some knowledge of the state of the province, which I am anxious to communicate to you. Indeed the inquiry, which was in a great degree obtruded upon me, affected me with mortifying reflections on my own inability to apply it to any useful purpose. From the confines of Buxar to Benares, I was followed and fatigued by the clamours of the discontented inhabitants. It was what I expected in a degree, because it is rare that the exercise of authority should prove satisfactory to all who are the objects of it. The distresses which were produced by the long-continued drought unavoidably tended to heighten the general discontent; yet I have reason to fear that the cause existed principally in a defective, if not a corrupt and oppressive, administration. Of a multitude of petitions which were presented to me, and of which I took minutes, every one that did not relate to a personal grievance contained the representation of one and the same species of oppression, which is in its nature of an influence most fatal to the future cultivation. The practice to which I allude is this:—it is affirmed that the aumils and renters exact from the proprietors of the actual harvest a large increase in kind on their stipulated rent: that is, from those who hold their pottas by the tenure of paying one half of the produce of their crops, either the whole without a subterfuge, or a large proportion of it by false measurement or other pretexts: and from those whose engagements are for a fixed rent in money, the half or a greater proportion is taken in kind. This is in effect a tax upon the industry of the inhabitants; since there is scarcely a field of grain in the province, I might say not one, which has not been preserved by the incessant labour of the cultivator, by digging wells for their supply, or watering them from the wells of Marisonry, with which this country abounds, or from the neighbouring tanks, rivers, and nullahs. The people who imposed on themselves this voluntary and extraordinary labour, and not unattended with expense, did it in the expectation of reaping the profits of it; and it is certain that they would not have done it if they had known that their rulers,

Exactions of the amils.

5 JUNE 1794. from whom they were entitled to an indemnification, would take from them what they had so hardly earned. If the same administration continues, and the country shall again labour under a want of the national rains, every field will be abandoned, the revenue fail, and thousands perish through the want of subsistence; for who will labour for the sole benefit of others, and to make himself the subject of vexation? These practices are not to be imputed to the aumils employed in the districts, but to the naib himself. The avowed principle on which he acts, and which he acknowledged to myself is, that the whole sum fixed for the revenue of the province must be collected; and that for this purpose the deficiency arising where the crops have failed, or which have been left uncultivated, must be supplied from the resources of others where the soil has been better suited to the season, or the industry of the cultivators more successfully exerted;—a principle which, however specious and plausible it may at first appear, certainly tends to the most pernicious and destructive consequences. If this declaration of the naib had been made only to myself, I might have doubted my construction of it; but it was repeated by him to Mr. Anderson, who understood it exactly in the same sense. In the management of the customs, the conduct of the naib, or of the officers under him, was forced also upon my attention. The exorbitant rates exacted by an arbitrary valuation of the goods, the practice of exacting duties twice on the same goods, first from the seller and afterwards from the buyer, and the vexatious disputes and delays drawn on the merchants by these oppressions, were loudly complained of; and some instances of this kind were said to exist at the very time when I was in Benares. Under such circumstances, we are not to wonder if the merchants of foreign countries are discouraged from resorting to Benares, and if the commerce of that province should annually decay. Other evils, or imputed evils, have accidentally come to my knowledge which I will not now particularise, as I hope that, with the assistance of the Resident, they may be in part corrected. One, however, I must mention, because it has been verified by my own observations, and is of that kind which reflects an unmerited reproach on our general and national character. When I was at Buxar, the Resident at my desire enjoined the naib to appoint creditable people to every town throughout which our route lay, to persuade and encourage the inhabitants to remain in their houses, promising to give them guards as I approached, and they required it for their protection; and that he might perceive how earnest I was for his observance of this precaution (which I am certain was faithfully delivered), I repeated it to him in person, and dismissed him that he might precede me for that purpose. But to my great disappointment, I found every place through which I passed abandoned, nor had there been a man left in any of them for their protection. I am sorry to add that from Buxar to the opposite boundary, I have seen nothing but the traces of complete devastation; whether caused by the followers of the troops which have lately passed for their natural relief—and I know not whether my own may not have had their share—or from the apprehension of the inhabitants left to themselves, and of themselves deserting their houses. I wish to acquit my own countrymen of the blame of these unfavourable appearances, and in my own heart I do acquit them; for at one encampment near a large village called Derrara, in the pergunnah of Zemaneea, a crowd of people came to me complaining that their former aumil, who was a native of the place, and had long been established in authority over them, and whose custom it had been, whenever any troops passed, to remain in person on the spot for their

Mismanagement of the customs.

Terror of the inhabitants.

Devastation committed by the troops.

protection, having been removed, the new aumil, on the approach of any military detachment, himself fled from the place, and the inhabitants having no one to whom they could apply for redress or for the representation of their grievances, and being thus remediless, fled also; so that their houses and effects became a prey to any person who chose to plunder them. The general conclusion appeared to me an inevitable consequence from such a state of facts, and my own senses bore testimony to it in this specific instance. Nor do I know how it is possible for any officer commanding a military party, how attentive soever he may be to the discipline and forbearance of his people, to prevent disorders, when there is neither opposition to hinder nor evidence to deter them. These and many other irregularities I impute solely to the naib, and I think it my duty to recommend his instant removal. I would myself have dismissed him had the control of this province come within the line of my powers, and have established such regulations and checks as would have been most likely to prevent the like irregularities. I have said checks, because unless there is some visible influence, and a powerful and able one, impended over the head of the manager, no system can avail. The next appointment may prove, from some defect, as unfit for the office as the present, for the choice is limited to a few, without experience to guide it. The first was of my own nomination. His merits and qualifications stood in equal balance with my knowledge of those who might have been the candidates for the office. But he was the father of the Rajah, and the affinity sunk the scale wholly in his favour; for who could be so fit to be entrusted with the charge of his son's interest and the new credit of the rising family? He deceived my expectations. Another was recommended by the Resident, and at my instance the Board appointed him. This was Jagger Deo Sing, the present naib. I knew him not, and the other members of the Board as little.

3 June 1794.

Flight of the amil.

Misconduct of the naib.

"While Mr. Markham remained in office, of whom as his immediate patron he may have stood in awe, I am told that he restrained his natural disposition, which has been described to me as rapacious, unfeeling, haughty, and to an extreme vindictive. I cannot avoid remarking that, excepting the city of Benares itself, the province depending upon it is in effect without a government; the naib exercising only a dependent jurisdiction without a principal. The Rajah is without authority, and even his name disused in the official instruments issued or taken by the managers. The representation of his situation shall be the subject of another letter. I have made this already too long, and shall confine it to the single subject for the communication of which it was begun. This permit me to recapitulate. The administration of the province is misconducted and the people oppressed; trade discouraged; and the revenue, though said to be exceeded in the actual collections by many lacks (for I have a minute account of it which states the nett amount, including jaghires, as something more than fifty-one lacks), in danger of a rapid decline from the violent appropriation of its means. The naib, or manager, is unfit for his office; a new manager is required, and a system of official control;—in a word, a constitution. For neither can the Board extend its superintending power to a district so remote from its observation, nor has it delegated that authority to the Resident, who is merely the representative of Government and the receiver of its revenue in the last process of it. Nor, indeed, would it be possible to render him wholly so, for reasons which I may hereafter detail."

My Lords, you have heard—not from the Managers—not

8 June 1794.

Examination of Mr. Hastings' letter.

from records of others—not from witnesses—the state of the country of Benares, from the time that Mr. Hastings and his delegated Residents had taken the management of it. My Lords, it is a proof beyond all proof of the melancholy state of the country, in which, by attempting to exert a usurped and arbitrary power, all power and all authority is extinguished, and complete anarchy takes place; and nothing of government appears in it but the means of robbing and ravaging, with an utter indisposition to take one step for the protection of the people. Think, my Lords, what a triumphant progress it was for a British Governor, from one extremity of the province to the other—for so he has stated it—to be pursued by the cries of an oppressed and ruined people, where they dared to appear before him; and, when they did not dare to appear before him, flying from every place, and the magistrate the first to fly before him; that, when they saw an appearance of a British soldier, they fled as from a pestilence. Then consider [that these were] the people who appear to labour in this manner, who dug their own wells, whose country would not produce anything but from the labour of the people;—such a meritorious, such an industrious people, subjected to such a cursed anarchy, under pretence of revenue—such a cursed tyranny, under pretence of government!

Jagger Deo Sing was unfit for his office. How dared you appoint a man unfit for his office? "O, it signifies little, without you had a constitution." Why did you destroy the official constitution that existed before? How dared you destroy those establishments which enabled these people to dig wells, to conduct the nalas upon the lands, and to leave them in the hands of your arbitrary and wicked Residents and their instruments, chosen out of the people, without the least idea of government, and without the least idea of protection?

God has sometimes made wickedness mad. It is to the credit of the reason of man, that men who are not in some some degree mad are never capable of being in the highest degree wicked. The human faculties and reason must be deranged. And therefore this man has been dragged by the just vengeance of Providence to make his own madness the discoverer of his own wicked, perfidious and cursed, designs upon such a country as that. Think what he says about the military:—there is no restraining them: they pillage the country. Had not Mr. Hastings, just before, encouraged the military to pillage the country? Did he not make the

Encouragement given to the

people's resistance, when the soldiers attempted to pillage them before, one of the crimes of Cheyt Sing? And who would dare, after that, to obstruct the military in their abominable ravages, when they saw one of the articles of Cheyt Sing's impeachment was his having suffered the people of the country, when these wicked soldiers were ravaging them in this manner, to return injury for injury and blow for blow? These were the things for which they saw Cheyt Sing sacrificed; and consequently there is nothing left for them but flight. Why fly from a Governor General? Why you would imagine he was carrying upon his balmy and healing wings the cure of the country. No; they knew him too well. They knew him to be the ruin of the country. They knew him to be the ruin of those persons whom he substituted under him; and that neither governor, sub-governor nor subject, could enjoy a moment's security while he had that power. This was the state of the country; and this we call upon your Lordships to avenge.

3 June 1794. troops to plunder.

What does he do? This Jagger Deo Sing, who is accused by him of all these corruptions and oppressions—he is satisfied to remove him. The other poor unfortunate man who was not accused, at least not in such a degree, and against whom not one of the accusations of oppression were made good to Mr. Hastings—he is twice imprisoned, and perishes in prison, with confiscation of all his goods. Not one word of the imprisonment of Jagger Deo Sing. On the contrary, after some mock inquiry, I believe, he is acquitted. When you find a man desolate a country in the manner this man is described by Mr. Hastings to have done, that man is safe. Compare [his treatment of Durbejey Sing] with the proceeding against Jagger Deo Sing—merely turning him out of his office, without making him restore what he had pillaged the people of. Compare it with his proceedings to Gunga Govind Sing. You find that out of 40,000*l.* which he had taken from Dinagepore, and 40,000*l.* from Patna, there was a balance upon that 80,000*l.* of 40,000*l.*; and instead of treating him with cruelty and rigour, without turning him out, he redoubled on him his grace and favour, and he never calls upon him for a penny of it. See the different treatment by Mr. Hastings of a man who has a secret of his to reveal. The other man he treats without mercy and with all those indignities. Think of a country ruined by him. Think of the state of your English army;—of those officers who came with an emulation to declare

Indulgent treatment of Jagger Deo Sing.

3 JUNE 1794.

him possessed of all virtues; that he is such a person as never existed upon earth; that nobody has, or can have, a right to complain of him; on the contrary, there is an emulation in testimonies at your bar of him.

Corrupt nature of the testimonials adduced by Mr. Hastings.

See what character he gives to these soldiers. See what he tells you is the state of the country, and the terror they struck into the people. It is enough that it is an English soldier, to strike the country people with horror; and yet these very people are witnesses brought here to express the general satisfaction of the people of India. To be sure, a man who never calls Englishmen to an account for any one robbery or injury whatever, who acquits them upon their good intentions, without any inquiry—there is no doubt but he will, in return for this indemnity, have their good words. But we protest against these indemnities. We protest against their good words. We protest against their testimonials, and insist your Lordships will try him, not upon what this and that officer says of his good conduct, but upon the very result of the actions tried before you. You see the cause is natural, and, without ascribing perhaps much guilt to men, that a man who covers their excesses, who suffers their fortunes to be made—this man will have their good word, undoubtedly. But the Commons look on those things with the greatest slight, and they consider [as nothing] all the evidence that is given by persons who are interested in the very cause, who derive their fortunes from the ruin of the very people of the country, who divide their spoils, as our army has done, ending finally by the judgment of the English Council in favour of these men. Why, these soldiers will give him their word, undoubtedly. These Residents will give him their word, undoubtedly. You would hear Mr. Markham, Mr. Benn and Mr. Fowke, if he had been called—you would hear them all, every servant of the Company, except some few, give him the same word—every one; because they have made their fortune, and their conduct has not been inquired into.

Responsibility of Mr. Hastings for the death of Durbejey Sing.

This unfortunate Durbejey Sing, while this country was in that situation, was actually a prisoner in Benares, where he died, and Mr. Hastings never gave him relief, but suffered him to perish in that prison. Mr. Hastings put that man into prison a second time, and he there died. And here I charge him with putting him to death—with executing that very thing which he intended. For whether a man puts another to death by poison or the dagger, or by putting him

into a prison from which it is hopeless he should ever come forth, I say, that man is guilty of his death; and I think the poison, the axe, or whatever instrument of destruction, would be a merciful and mild one in comparison of the punishment Mr. Hastings gave that man, who did not ravage the country like his successor. He puts the predecessor into prison, and there he rots and dies; and, as to the successor, he is satisfied with a gentle dismission.* 3 June 1794.

Then says Mr. Hastings, "this is all for want of a constitution." Why did you destroy the constitution? But he had actually authorised Mr. Markham in this letter to make a regular, an official, constitution. Did Mr. Markham make it? No; though he professed to do it, it never was done; and, so far from having a regular, able, efficient, constitution, you see there was an absolute and complete anarchy in the country; and, so far from trusting to British soldiers for defence, the moment they saw the face of a soldier or British person in authority they fled before him, and thought leaving their houses abandoned to robbery the more eligible of the two. Is this government? Is this what they call the British dominion? Is this what you will sanctify by your judicial authority? And will you do that in defiance of your legislative authority? Are they so impiously mad as to suppose your Lordships to be corrupted to betray, in your judicial capacity—the more sacred of the two—what you have ordained in your legislative character?

Withholding of the constitution.

My Lords, I am [next] to tell you what this man has had the insolence and audacity to state to your Lordships:—

> "In fact," says he, "and I can adduce many gentlemen now in London to confirm my assertions, the countries of Benares and Gauzepore were never, within the memory of Englishmen, [so well protected, so peaceably governed, or more industriously cultivated than at] the present moment."

False statement of Mr. Hastings respecting the condition of Benares.

Your Lordships know that this report of Mr. Hastings was in the year 1784. Your Lordships know that no step was taken, while Mr. Hastings remained, for the regulation or management of the country. If there was, let it be shown. There was no constitution framed nor any other means taken, but appointing one Ajit Sing in the room of Durbejey Sing, to reign like him—like him to be turned out; the same misfortunes and miseries to be continued. Mr. Hastings came into this country. He set off in February

* The whole of this paragraph is omitted in the revised copy.

3 June 1794. 1785. He arrived here, as I believe, in June or July following. Our proceedings against him commenced in the session of 1786; and this Defence was given, I believe, in the year 1787. And yet, at that time, when he could hardly have had an account from India, he was ready to have the evidence—and no doubt he would have had it—of many gentlemen, who would have deposed directly contrary to [what he had himself deposed of]* the state in which he, so short a time before, had left it. Your Lordships cannot suppose it could have recovered in that time. I know you may destroy that in a day which will take up years to build. You know a tyrant can ruin and oppress, but you cannot restore the dead to life: you cannot restore those fields to cultivation: you cannot make the people preserve old or dig new wells, as Mr. Hastings has told you. And yet he dared say to the Commons, that he would produce persons to refute the account we had fresh from himself at that time. But we will undertake to show the direct contrary.

Report of Mr. Barlow.

There is Mr. Barlow's account of the state of trade. I would shorten the thing to your Lordships, and only refer to it. First, I will only state to you the total falsehood of all that has been said; that Mr. Hastings himself, in his regulations of trade, was obliged to give orders for the change of almost every one of them. By Mr. Barlow's report, your Lordships may see the madness and folly of tyranny attempting to regulate trade. It is in the printed Minutes, page 2830. There your Lordships will see the complete ruin that Mr. Hastings made of trade; that, wherever he pretended to redress it, he never took care to have any one part of his pretended matter of redress executed. And, when you consider the anarchy in which he states the country to be through which he passed, you may easily conceive that any pretended regulations, without any means of enforcing them, to protect the trade must fall into disuse.

Mr. Barlow went, in the years 1786 and 1787, to examine into the state of the country. He has stated the effect of all Mr. Hastings' regulations, which he has dared to represent here as prodigies of wisdom. At the very time when our Charge was brought to this House—it is a remarkable period, and we desire your Lordships to advert to it—at that time—I do not know whether it was not the

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* Revised copy.

very same day that we brought our Charge to your bar— Mr. Duncan was sent by Lord Cornwallis to examine into the state of that province. Now let us see whether or no, by any regulations Mr. Hastings had made or any means he had taken, that country was [recovering] or did recover; and your Lordships will see how audaciously false [is his representation], that all that he had done operated on the minds of the inhabitants very greatly in favour of the British integrity and good government; namely, the flight of all the inhabitants, that your Lordships have heard of. And then he can adduce gentlemen now in London to confirm the assertion, "that the countries of Benares and Gauzepore were never, within the memory of Englishmen, so well protected, etc., as at the present moment"! 3 June 1794.

Evidence of Mr. Duncan.

Now, instead of a speech from me, you shall hear what the country says itself, by the report of the last commissioner who was sent to examine it, to Lord Cornwallis, and whose testimony Mr. Hastings has established out of Lord Cornwallis' mouth; who, being called by Mr. Hastings, and asked the character of Mr. Jonathan Duncan, has declared that there is nothing he can report of the state of the country to which you ought not to give credit. And if he wanted credit, is there not everything said by Mr. Hastings to verify the state of the country when he was there? Now see how profound and deep the wounds that tyranny and arbitrary power must make in a country where they are suffered to go on. Your Lordships will observe that it is in the year 1788, four years after that state, and while he was amusing us with this account here:—

His report from Gurrah Dehmah.

"Extract of the proceedings of the Resident at Benares, under date the 16th February, 1788, at the pergunnah of Gurrah Dehmah, &c. [Printed Minutes, page 2610]:—

"The Resident having arrived in this pergunnah of Gurrah Dehmah from that of Mohammedabad, is very sorry to observe that it seems about one third, at least, uncultivated, owing to the mismanagement of the few last years. The Rajah, however, promises that it shall be by next year in a complete state of cultivation, and Tobarck Hossaine, his aumeen, aumil, or agent, professes his confidence of the same happy effects; saying that he has already brought a great proportion of the land that lay fallow, when he came into the pergunnah in the beginning of the year, into cultivation, and that, it being equally the Rajah's directions and his own wish, he does not doubt of being successful in regard to the remaining part of the waste land."

Report from Bulleah.

"Report dated the 18th of February, at the pergunnah of Bulleah:—

"The resident having come yesterday into this pergunnah from that of Gurrah Dehmah, finds its appearance much superior to that pergunnah in point of cultivation; yet it is on the decline, so far that its

3 JUNE 1794. collectable jumma will not be so much this year as it was last; notwithstanding all the efforts of Reazel Husn, the agent of Khulb Ali Khan, who has farmed this pergunnah upon a three years' lease, (of which the present is the last,) during which his, that is the head farmer's, management cannot be applauded, as the funds of the pergunnah are very considerably declined in his hands. Indeed Reazel Husn declares that this year there is little or no khereof, or first harvest, in the pergunnah; and that it has been merely by the greatest exertions that he has prevailed on the ryots to cultivate the rubby crop, which is now on the ground, and seems plentiful."

Report from Khereed.

"Report, dated the 20th of February, at the pergunnah of Kherced:—

"The Resident having this day come into the pergunnah of Kherced, finds that part of it laying between the frontiers of Bulleah, the present station, and Bansdeah (which is one of the tuppahs or subdivisions of Khereed) exceedingly waste and uncultivated. The said tuppah is sub-farmed by Gobind Ram from Kulub Ali Bey, and Gobind Ram has again under-rented it to the zemindars."

Reports from Secunderpoor.

"Report, dated the 23d day of February, at the pergunnah of Sekunderpoor:—

"The Resident is set out for Sekunderpoor, and is sorry to observe that, for about six or seven coss that he had further to pass through the pergunnah of Khereed, the whole appeared one continued waste as far as the eye could reach, on both sides of the road. The pergunnah Sekunderpoor, beginning about a coss before he reached the village, an old fort of that name, appeared to a little more advantage; but even here the crops seem very scanty and the ground more than half fallow."

"Extract of the proceedings of the Resident at Benares, under date the 26th February, at the pergunnah of Sekunderpoor:—

"The Resident now leaves Sekunderpoor to proceed to Nurgurha, the head cutcherry of the pergunnah. He is sorry to observe that, during the whole way between these two places, which are at the distance of six coss or twelve miles from each other, not above twenty fields of cultivated ground are to be seen; all the rest being, as far as the eye can reach, except just in the vicinity of Nuggeha, one general waste of long grass, with here and there some straggling jungly trees. This falling off in the cultivation is said to have happened in the course of but a few years, that is, since the late Rajah's expulsion."

Your Lordships will observe the date of the ruin of this country is the expulsion of Cheyt Sing.

"Extract from the proceedings of the Resident at Benares, under date the 27th February, at the pergunnah Sekunderpoor.

"The Resident meant to have proceeded from this place to Cossimabad, but, understanding that the village of Rcssenda, the capital of the pergunnah of Susknesser, is situated at three coss distance, and that many rhardarry collections are there exacted, the zemindars and ryots being, it seems, all one body of Rajepoots, who affect to hold themselves in some sort independent of the Rajah's Government, paying only a mohurrery or fixed jumma, (which it may be supposed is not overrated,) and managing their interior concerns as they think fit, the Resident thought it proper, on this report, to deviate a little from his intended

route, by proceeding this day to Ressenda, where he accordingly arrived in the afternoon; and the remaining part of the country near the road through Sekunderpoor, from Nuggurha to Seundah, appearing nearly equally waste with the former part, as already noticed in the proceedings of the 21st instant. 3 JUNE 1794.

"The Rajah is therefore desired to appoint a person to bring those waste lands into cultivation, in like manner as he has done in Khereed; with this difference or addition in his instructions, that he subjoins in those to the aband kar, or manager of the re-cultivation of Sekunderpoor, the rates at which he is authorised to grant pottas for the various kinds of land; and it is recommended to him to make these rates even somewhat lower than he may himself think strictly conformable to justice, reporting the particulars to the Resident.

"The Rajah is also desired to prepare and transmit a table of similar rates to the aband kar of pergunnah Khereed.

"(Signed) JON. DUNCAN,
"Benares, the 12th September, 1788. "Resident."

There your Lordships find, in spite of Mr. Hastings himself, and all the testimonies he has called here, and all the other testimonies he would have called—you find his own account of the matter confirmed, against his own pretended evidence. You find his own account of that matter confirmed in a manner not to be doubted; and the only difference between his account and this is, that the people did not fly from Mr. Duncan as he approached, as they fled from Mr. Hastings. They had not the terror of a person coming from the beneficent government exercised by Lord Cornwallis that they had from the cruel and abandoned tyranny exercised by Mr. Hastings. Why, they fled from his presence as a consuming pestilence—worse than the drought, worse than a famine, worse than any evil that ever affected mankind—that of a cruel, corrupt and arbitrary, governor. Terror inspired by Mr. Hastings.

You have seen how he wasted the country—how he destroyed it. You have seen the date of these measures. They have happened within a few years, namely, since the expulsion of Raja Cheyt Sing. There is the era of calamity. Then ask yourselves, whether or no you will or can countenance these acts, that led directly and necessarily to such consequences. But mark what it is to oppress a great individual in power. Nothing stands after him: down all authorities go with him. Ruin and desolation come upon the country. The fields are uncultivated; the wells are neglected. The people promise, says he, some time or other, under some other government, to do something. They will cultivate the lands when they can get an assurance of security. When we have read that account of Mr. Hastings, when we Fatal effects of oppression.

3 June 1794.

see this uncultivated country as far as the eye can reach—when we see these miserable fields, this undone people—the House of Commons would show themselves unworthy to represent, not only the Commons of Great Britain, but the meanest village in it, if they did not bring this great criminal before you, and call upon your Lordships to punish him. These desolate fields, this undone people, these ruined inhabitants, all call aloud for British justice, and all call for vengeance upon the head of this devoted criminal.

O! but we ought to be tender of this person—extremely cautious of our speech: we ought not to let indignation loose. My Lords, we do let indignation loose. We cannot bear this affliction of mankind. We cannot bear this desolation, ruin, mischief, anarchy and confusion, altogether; and we will not cease in our energy, nor relax in our feelings, nor in the expressions those feelings dictate. Nothing but corruption could wish any man to see such a scene as this, and to see it unmoved. No; we feel for the works of God and man, and the debasement of nature by this man.

But we forget in this an aggravation. Do you think it is possible for an aggravation of such a case as you have heard? Do you think it possible for a people to suffer more in their great families, in their baboos, or nobility, down to the miserable cottage of the lowest husbandman in the country?

Debasement of the people evinced by their testimonials to Mr. Hastings.

Yes; there is a state of degradation and ruin that is below that. What is it? That these miserable people should come to your Lordships' bar, and declare that they have never felt one of those grievances which they complain of; that not one of those petitions with which they pursued Mr. Hastings had a word of truth in it; that they felt nothing under his government but ease, tranquillity, joy and happiness; every day a festival, and every night a rejoicing, an illumination. And then come the flowers of Oriental rhetoric, penned at ease at Calcutta by the dirty munshis, the hirelings that are in that place, who come to make these people put the seal upon their own ruin, and make themselves declare they are satisfied with this man. Hear what he says of the country. Hear what Mr. Duncan says of it. Hear what the country cries out itself, in crying out for justice upon him; and hear what he has made these people say:—

"[We have heard that the gentlemen in England are displeased with Mr. Hastings, on suspicion that he oppressed us, the inhabitants of this place, took our money by deceit and force], and ruined the country."

Then they declare solemnly, in the face of God, by their

several religions—the Mohammedans by the kuran,—or making [themselves] or pretending to be—for, God knows, their signatures are nothing in that case—they declare they are bound by their religion to represent facts. You would imagine some facts to be represented. There is no such thing:— 3 JUNE 1794.

"He is free" say they, "from [the charge of embezzlement and fraud, and his heart is void of covetousness and avidity. During the period of his government, no one ever experienced from him other than protection and justice, never having felt hardships from him; nor did the poor ever know the weight of an oppressive hand from him. Our characters and reputation have been always guarded in quiet from attack by the vigilance of his prudence and foresight, and by] the terror of his justice."

Upon my word, my Lords, the paragraphs are delightful. Observe, in this translation from the Persian there is all the fluency of an English paragraph well preserved. All I can say is, these people of Benares feel their joy, comfort and satisfaction, in representing the falseness of Mr. Hastings' representation against himself. [In spite of his own testimony, they say:—"He secured happiness and joy to us. He re-established the foundation of justice; and we at all times, during his government, lived in comfort and passed our days in peace."]*

Audacity of Mr. Hastings in adducing the testimonials.

The shame of England and the English Government is upon your Lordships' records. Here you have, just following that afflicting report of Mr. Duncan's, that account of Mr. Hastings, in which he said the inhabitants fled before his face. Here he gets these miserable people, and he dares to impose upon your eyesight, upon your common sense, upon the justice of the country, upon the plain faculties of mankind, to contradict all his own assertions, and to make these people come and swear that they have enjoyed nothing but complete satisfaction and pleasure during the whole time of his government.

My Lords, I have done with this business, because the climax of degradation and distress, following the total ruin and oppression of a people, never could have been completed without this; and I defy any man to add anything to it other than this. What country do we live in where such a thing is offered [to the public eye]?*

Here, my Lords, make a pause. You have seen what Benares was. You have seen it in Cheyt Sing's time: you have seen the manner in which Cheyt Sing left it. You see the manner in which Mr. Hastings left it. You have seen

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* Revised copy.

8 June 1794. the deep wounds that he had inflicted upon the country, and which could not be healed. You have seen the degrading insults he has offered to the people, by bringing such a testimony as this before you after such a fact; and you will now see whether or no you ought to fortify and support any of the wicked principles upon which he justifies all these things.

Condition of Oude.

My Lords, I am now come to another dependent country, in which I am going to illustrate to your Lordships still further the principles upon which Mr. Hastings acted;—that is, the country of Oude. The country of Oude was, before our acquaintance with it, in a happy and flourishing condition. It appears upon your Lordships' Minutes to have been so: several of its parts were so; and the great period of its decline and misery was from the time of our intermeddling with it. The Nawab of Oude was reduced, as Cheyt Sing was, to be a dependant on the Company; and to be a greater dependant than Cheyt Sing, because it was reserved in Cheyt Sing's agreement that we should not interfere in his government. We interfered in every part of the Nawab's government. We reduced his authority to nothing. We introduced a perfect scene of anarchy and confusion into the country, where there was no authority but to rob and to destroy.

Ruinous effects of British interference.

One of the principal means that Mr. Hastings took in that manner to rob and to destroy, was by sending a swarm of locusts—a swarm of English—into the country, in two characters, in a civil character and in a military character. Those whom he sent in a civil character were under the name of residents, paymasters, and various bodies of officers who consumed the revenues of the country; and there were, as your Lordships have in evidence, various pensioners placed upon the Nawab of Oude. One of the principal of them we have marked to your Lordships—Sir Eyre Coote. After he had exhausted it in that manner, that was but a poor resource for Mr. Hastings' avarice and that of his dependants. The worst and the most terrible scourge came after the civil pensions; though they amounted to an enormous sum; and in proportion as he pensioned privately upon him the demands and exactions of the public, they grew till they came to be nearly double what the actual produce of the country gave. But, when thus he was consigning the country to ruin, and along with it the Company's affairs to ruin, Mr. Hastings goes up and forms the treaty, as it is called, of

Treaty of Chunar.

Chunar, with the Wazir; where he proposed to relieve him from some of his English pensioners,—which he did not relieve him from. He proposed to relieve him from the English brigade,—which he did not take off. 3 JUNE 1794.

Outrages committed by the military collectors.

He sent a body of military collectors into the country, under pretence of being officers in the Nawab's pay. To them, as your Lordships have it in evidence, was the revenue of the country farmed; and they imposed upon it, not a settled rate, not a settled agreement, nothing by way of a farm or anything else; they took from it what they pleased. We have proved he endeavoured to squeeze and extort this revenue from the people by confining them in the open air in cages, till they could be thrown into dungeons, called mud forts. We have proved he exacted by the scourge from this unhappy people; that he imprisoned them by hundreds, under the name of hostages for others, until the whole country broke into rebellion. We have proved to your Lordships that a Captain Williams and others came there and, under the pretence of suppressing that rebellion, murdered the people who were in prison in the place, under the cruel, arbitrary and unjust, exactions of Colonel Hannay; which I have not strength at present to dilate to your Lordships, but I hope I shall do. Your Lordships cannot, I am sure, calculate from your own youth and strength; but I have done the best I can, and find myself incapable, just at this moment, to go any further.

CONTINUATION OF THE SPEECH OF THE RT. HON. EDMUND BURKE, MANAGER FOR THE HOUSE OF COMMONS, IN GENERAL REPLY ON THE SEVERAL CHARGES; 5 JUNE, 1794.

5 JUNE 1794.

MY LORDS,—When I had last the honour of addressing your Lordships before this House, my strength obliged me to conclude where the patience of a people and the prosperity of a country concluded too. I was obliged to conclude very nearly at that place in which Mr. Hastings had left desolate the large and fertile province of Benares. Your Lordships know—I am sure you have already had the map of India fully before you—that the country so destroyed and so desolated was about one fifth of the size of England and Wales, in geographical extent—in population about a fourth of it. Judge, then, upon that scale, the mischief that was done.

My Lords, we now all come to another part. We march from desolation to desolation; because we follow the steps of Warren Hastings, Esq., Governor General of Bengal.

Arrogance of vulgar tyrants.

My Lords, we are going to open to you another matter still more large. But before we go on it, I beseech your Lordships to recollect one grand principle, which is to guide you in the whole of this deliberation—that you never will judge that a man is innoxious because he is insignificant. You will see that a man bred in obscure, vulgar and ignoble, occupations, and trained in sordid, base and mercenary, habits, [is not incapable of doing]* mischief, because he is little, and because his vices are of a mean kind. For, my Lords, we have shown to you already, and we shall demonstrate to you much more in future, that such minds, placed in an unsuitable power—mind and power unsuitable—can do more mischief to a country, can treat all people with more pride, insolence and arrogance, than those who have been born under canopies of state and who in their infancy have been swaddled in purple; that they can waste a

* Revised copy.

country more effectually than the proudest high and mighty conquerors, who by the greatness of their military talents have first subdued and afterwards commanded countries. 5 June 1794.

The Counsel have thought proper to entertain your Lordships, and to defend this prisoner, by a comparison with those who have erected a pyramid of ninety thousand heads. Look back, my Lords, to Benares: consider the country wasted, the people destroyed by famine, and then see whether famine may not destroy as well as the sword; and see whether this man is not as much intitled to erect his pyramid of ninety thousand heads, of those who must have died by that famine, as any of the tyrants of the East. We follow him now to another theatre: the theatre we are going to open is Oude.

My Lords, Oude, in point of geographical extent, with the additions made to it by Suja-ud-Dowla, is about the size of England. Suja-ud-Dowla, who first possessed it, was a prince of a high, haughty, character; ferocious in a high degree towards his enemies and towards those who resisted his will, but magnificent in his expenses, yet economical with regard to his resources; living like one of the greatest princes in the world, with such pomp and Asiatic state as is, perhaps, unknown to the sovereigns of Europe; yet, at the same time, such an economist, that, from an infinitely small revenue at the beginning of his reign, towards the end of it he was enabled to make continual great, annual, savings. His people he preserved in peace, tranquillity, quiet and order; and never strained his revenue in such a manner as, while he filled his exchequer, to lose their affections, though he was an arbitrary prince. Such was the character of Suja-ud-Dowla. What is the character the prisoner has thought proper to give you of him?

Character of Suja-ud-Dowla.

It is a most melancholy situation to look upon, [that of] the great in that country; and I hope of your Lordships, while your compassion makes you have a sympathy with the lowest kind, that your sympathetic dignity will make you consider in what manner the princes of this country are treated. They not only have been treated by the prisoner at the bar with indignity, but his Counsel have slandered their families—have gone into scandalous history, that has no foundation whatever—not to let their ancestors lie quietly in their graves.

Calumnies respecting his birth.

Your Lordships see how he attempted to slander the ancestors of Cheyt Sing—to deny that they were zamindars. And yet he must have known, from printed books taken from the Company's records, the utter falsity of that

5 June 1794. declaration of his. They are constantly so named. You have nothing to do but to look at Mr. Verelst's Appendix, and there you will see that that country has always been called the zamindary of Bulwant Sing. You will find he is always called the zamindar of it. It was the known name, till this gentleman thought proper, at the bar of the House of Commons, to deny that he was a zamindar—[to assert] that he was only an amil. He slanders the pedigree of this man: and yet he was not ashamed from that man, of a base degree as he pretends, to take 23,000*l.*; and, while he takes from Asoff-ud-Dowla 100,000*l.*, which he would have appropriated to himself, he desires his Counsel to rake into Dow's History, a book without authority—a book that no man values in any degree; that has got in it that romantic, absurd and ridiculous, story which an honourable fellow Manager of mine has observed upon, who is much more capable of doing justice to it,*—that story of spitting on the beard; the mutual compact to poison one another;—that Arabian tale, fit to form a ridiculous tragedy, which has been mentioned to your Lordships for the purpose of slandering the pedigree of this Wazir of Oude—from whom he has taken 100,000*l.*—and making him vile in your Lordships' eyes. My honourable friend has exposed to you the absurdity of this proceeding; but he has not shown you the malice of it.

Unauthentic character of Dow's History.

He has referred to Dow's History, who calls this man "the more infamous son of an infamous Persian pedlar," in order that your Lordships should consider him as a person vilely born, ignominiously educated, and practising a mean trade; that, when he comes to treat him and his family afterwards with indignity and contempt, some part of the sympathy of mankind shall be lessened on account of it. But consider the monstrous perfidy and ingratitude of the man, who was not satisfied to oppress the offspring living, but would go back to tear their ancestors from their graves.

Family of Suja-ud-Dowla.

My Lords, the ancestor of Suja-ud-Dowla was a great prince; certainly a subordinate prince, because he was a servant of the Great Mogul, who was well called king of kings, and had persons of high degree servants to him. He was born in Persia,—not "the more infamous son of an infamous Persian pedlar." But your Lordships ought to know the state and history of India, and I dare say you do know that Persia has been the nursery of all the Mohammedan nobility of India; that everything almost that is not

* See the speech of Mr. Sheridan, in reply on the second Charge; *supra*, p. 108.

Gentu in it is of Persian origin. It is so much so, that the Persian language is the language of the court, and the language of every office, from the highest to the lowest. And I am to tell your Lordships that his is one of the highest families, by both father and mother, which is to be found in that country. This person, of such dignity of birth both by father and by mother, was eminently and more illustriously so by his mother, the person who is commonly known here by the name of Munny Begum, the mother of Suja-ud-Dowla. This family is slandered by this man at your bar, in order to destroy the character of those whom he has robbed of all their substance. They have totally misrepresented it in every point. This History of Dow has no authority in the world; and your Lordships will judge how the Dows—how the Hastingses and that tribe, in what insolent language, and with what pride and indignities, trample upon the first names and the first characters in that country. 5 JUNE 1794.

His rank.

Now, supposing it perfectly true that he was "the more infamous son of an infamous Persian pedlar," he was the secondary sovereign of that country. He had a revenue of 3,600,000*l.* sterling;—a vast and immense revenue, equal perhaps to the clear revenue of England; I mean in real productive effects. He maintained an army of 120,000 men. He had a splendid court, and his country was prosperous and happy. Such was the situation of Suja-ud-Dowla, the Nawab of Oude; and such the situation of Oude under Suja-ud-Dowla, whose pedigree they have thus slandered, and which, I believe, your Lordships will think, though it were true, is nothing to the subject-matter here before us, but only marks the indecency, the rancour, the malice, the pride and tyranny, which these people exercise over the great in that country;—the Dows, I mean, and the Hastingses, and the people of that class and character.

Mr. Hastings' apology for the mismanagement of Oude.

I must beg leave to state to your Lordships that I shall be saved a great deal of trouble in proving to you the flourishing state of Oude, because the prisoner admits it as largely as I state it; and what is more, the state to which it is reduced he admits too—but I shall not let him go off so easily upon that. He admits, too, that it was left in a reduced and ruined state during his administration. The defence that he makes for it is, he attributes it to a system. My Lords, systems never make mankind happy or unhappy, any further than as they give occasions for wicked men to exercise their own abominable talents, subservient to their own

5 June 1794. more abominable dispositions. "The system," says Mr. Hastings, "was bad; but I was not the maker of the system." There is one rule he has constantly and uniformly applied. He applied it to Benares: your Lordships will see he applies it to Oude. He applies it everywhere:—"I came into a bad system: that system was not of my making, but I was obliged to act according to the spirit of that bad system."

Now every other man would say this:—"I was in a bad system. I had every temptation to abuse my power: I had every temptation to peculate: I had every temptation to oppress: I had every means of concealing it by the defects of the system: but I corrected that evil system by the goodness of my administration, by the prudence, the energy, the virtue of my own conduct." This is what all the rest of the world would say. What says Mr. Hastings of that system?—Because your Lordships are never to forget that the question is now, upon what principles Mr. Hastings is justified. Says he, "A bad system was made. I had nothing to do with making it, but I was the involuntary instrument in being obliged to execute every evil which that system contained in it." Your Lordships are to consider whether it is a principle for to-day and every day. I must certainly remind your Lordships that we are at an issue at law; that Mr. Hastings avows a certain set of principles that he will act upon; and your Lordships are, therefore, to judge whether you are to justify his acts by supposing that Mr. Hastings had an evil system to act upon, or whether you do not know that he and all governors upon earth have a good system to act upon. What is the consequence of this evil system? Says he, "This evil system rendered the Nawab, from being a powerful prince, a dependant upon the Company." When he comes to explain these evils—he is subject to extortion, he is subject to oppression, he is in a degraded state.

Death of Suja-ud-Dowla.

In the year 1775, this powerful, magnificent, illustrious, prince, Suja-ud-Dowla, possessing this country and governing a contented and happy people—allowing him the portion of tyranny which really he did exercise, with regard to some few individuals who resisted his power; but he was a wise and beneficent governor in every other respect—this man dies, in the midst of this power and fortune. He leaves somewhere about fourscore children. Your Lordships know that the princes of the East have a great number of wives; but we know that these wives have been reputed, though of

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a secondary, yet of a very high degree, and have been maintained according to the customs of the East as such. Suja-ud-Dowla had but one lawful wife: he had but one lawful child, Asoff-ud-Dowla. He had about twenty males; the eldest of whom was a person whom you have heard of very often in these proceedings, called Saadat Ali. Asoff-ud-Dowla, being the sole legitimate son, had all the pretensions to succession that an officer of the Mogul empire can have under the Mogul government. Your Lordships will distinguish a zamindar, who is a perpetual landholder, the hereditary proprietor of an estate in the country, from a subahdar, who derives from his master's will and pleasure all his employments, who, instead of having jagirdars subject to his supposed arbitrary will, is himself a subject, and must have his sovereign's patent for his place. Therefore, strictly and properly there is no succession in the office of subahdar. At this time [the Company],* who alone could obtain for it the sanads from the Great Mogul, from the power that they had in India, thought, and thought rightly, that with an officer who had no hereditary power there was no hereditary engagement; that therefore their treaty was not a real treaty, but a personal treaty that belonged to the person for life; and that therefore, at the death of his father, they had a right to make a new agreement with him; which new agreement, if made, was honourably made—made advantageously to the Company and advantageously to the person himself, the son, for whom the rank of subahdar was obtained; and the Company agreed that the subsidy which he should pay for a certain number of troops should be fixed and settled; which relieved the Company's finances and increased their military strength. But, with regard to anything in his government, there is not one word in the treaty—which Mr. Hastings calls that evil system—not one word in the treaty that authorised Warren Hastings, or any other person whatsoever, to interfere in the interior affairs of his country. He was Viceroy of Oude: his dignity that of Wazir of the empire. All the power that those offices gave him, derived under the Mogul legal government, he possessed. And this system, which, Mr. Hastings says, led him to the enormities of which you shall hear by and by, was neither more nor less than I tell you.

New treaty made by the Company with Asoff-ud-Dowla.

But, my Lords, the prisoner thinks, that, when any sort of

* Revised copy.

5 JUNE 1794. means could be furnished, under any sort of pretence, of interfering in the government of that country, he has a right to ruin it at his pleasure—to govern it by his arbitrary will. Accordingly he says, that this Wazir, by this treaty, was reduced to a state of vassalage. There is nothing less true. But there is a distinction; for he says, it was an optional vassalage, for, if he had a mind to get rid of our troops, he was free; if he had not a mind to do that and found a benefit in it, then he was a vassal. Now here is a person who has a subsidiary body of troops for you, for which he is to pay, and he does by that means become a vassal. I shall not dispute whether a vassal is optional, or by force, or in what way Mr. Hastings considered him as a vassal of the Company. Be it so. I think it is necessary that your Lordships should truly know the state of that country; that you should know the ground upon which Mr. Hastings stood; that you should know the fairy land in which you are to act, which is perpetual masquerade, where no one thing appears to you as it is, where the person who seems to have the authority is a slave, where the person who seems to be the slave has the authority, where no one thing appears in its true and natural shape; and therefore in that ambiguous government everything favours fraud, everything favours peculation, everything favours violence, everything favours concealment. Therefore you will permit me to show to you what were Mr. Hastings' principles, according to the evidence before you; what the state of the country was, according to his conceptions of it; that you may see how he acted upon them:—

His alleged vassalage.

"My Lords, the means by which our Government acquires this influence," says Mr. Hastings, "and its right to exercise it, will require a previous explanation."—It is in pages 760 and 761 of the printed Minutes.—"With his death"—talking of Suja-ud-Dowla—"a new political system commenced, and Mr. Bristow was constituted the instrument of its formation and the trustee for the management of it. The Nabob Azoph-ul-Dowlah was deprived of a large part of his inheritance; I mean the province of Benares, attached by a very feeble and precarious tenure to our dominions, the army fixed to a permanent station in a remote line of his frontier, with an augmented and perpetual subsidy. A new army, amphibiously composed of troops in his service and pay, commanded by English officers of our own nomination, for the defence of his new conquests, and his own natural troops annihilated or alienated by the insufficiency of his revenue for all his disbursements, and the prior claims of those which our authority or influence commanded. In a word, he became a vassal of the Government, but he still possessed an ostensible sovereignty. His titular rank of Vizier of the empire rendered him a conspicuous object of view to all the states and chiefs of India; and on

Dissection of Mr Hastings' defence.

Position of Asoff-ud-Dowla.

the moderation and justice with which the British Government in Bengal exercised its influence over him, many points essential to its political strength and to the honour of the British name depended." 5 June 1794.

Your Lordships see that those systems which are supposed to have reduced him to vassalage made not, as we shall contend, a violent exercise of our power proper; but, possessing that high nominal dignity and being in that state of vassalage, as Mr. Hastings thought proper to speak of it, though there is no vassalage in the treaty—being in that situation of honour, credit and character, possessing a country as large as England, with such an immense revenue and flourishing trade, certainly, our honour depended upon the use we made of that power; and therefore we press that this conduct of Mr. Hastings was such as dishonoured this nation, because he states—in which he is perfectly right—that the great degree of power that we had obtained, contrary to reason and right, could only be justified in any degree by a lenient, proper, wise and virtuous, use of it.

He proceeds :—

"This is not a place, nor have I room in it, to prove what I shall here content myself with affirming, that, by a sacred and undeviating observance of every principle of public faith, the British dominion might have by this time acquired the means of its extension, through a virtual submission to its authority, to every region of Hindostan and Deccan. I am not sure that I should advise such a design were it practicable, which at this time it certainly is not; and I very much fear that the limited formation of such equal alliances as might be useful to our present condition, and conduce to its improvement, is become liable to almost insupportable difficulties. Every power in India must wish for the support of ours, but they all dread the connection.

General dread of British dominion.

"The subjection of Bengal and the deprivation of the family of Jaffier Ali Khan, though an effect of inevitable necessity, the present usurpation of the rights of the Nabab Wallar Jau in the Carnatic, and the licentious violations of the treaty existing between the Company and the Nabob Nizam ul-Dowlah, though checked by the remedial interposition of this Government, stand as terrible precedents against us. The effects of our connection with the Nabob Azoph-ul-Dowlah has a rapid tendency to the same consequences, and it has been my invariable study to prevent it."

Your Lordships will remember that the Counsel at the bar have said, that they undertook the defence of Warren Hastings, not in order to defend him, but to rescue the British character from the imputations that have been laid upon it by the Commons of Great Britain; that the Commons of Great Britain have slandered their country; that they have misrepresented its character; and that, on the contrary, the servants of the Company sustained and maintained the dignity of the British character, kept its public

5 June 1794. faith inviolate, preserved the people from oppression, reconciled every government to it in India, and made every person under it prosperous and happy.

My Lords, you see what the man himself says—that this man, in endeavouring to prove his own innocence and the innocence of all the servants of the Company, to clear them from the calumny thrown on the English nation, has declared that, by preserving good faith, you might have conquered all India—the most glorious conquest that ever was made in the world; that all the people want our assistance, but dread our connexion. Why? Because our whole conduct has been one perpetual tissue of perfidy and breach of faith, with every person who has been in alliance with us, in any mode whatever. Here is the man himself who says it! Can we bear at this day that this man should hold himself out as the assertor of the honour of the British nation against us, who charge this to have happened to our dishonour by him, through him, and during his government: which it did, as we shall prove to you? Therefore we have established as a foundation, by his own account of it, that the British dominion in India might have extended itself and conquered by the opinion of its good faith, its honour and integrity; and, if we have caused whole nations to ally and league against us, he himself has told us the reason why. He values himself upon the resistance he made to such a combination. Here is the situation of the country: it came under us in the year 1775.

System of General Clavering, Colonel Monson, and Mr. Francis.

"Your Lordships must remark," says he, "that system is not mine: it was made by General Clavering, Colonel Monson and Mr. Francis." So it was, my Lords. It is a thing that does them very great honour, and I believe ever will do them honour in the eyes of the British nation, that they took an opportunity, without the violation of faith, without the breach of any one treaty and without injury to any person, to do great and eminent services to the Company. But Mr. Hastings disclaims it. No one charges him with it. What we charge him with is this:—that he, finding this man, I suppose, likely to be in debt, turns him into a vassal. You observe that, when any failure is made in payment, the man becomes a vassal. You remember how Durbejey Sing, the moment he fell into a failure of revenue, became a vassal, and was thrown into prison without any inquiry into his conduct. This man becomes a vassal—a prisoner; he loses all his rights. Why? "Because," says he, "there was a

sum of money more than he was able to pay exacted from him." We contend and can prove that his revenue was 3,600,000*l.* at the day of his [father's] death; and if the revenue fell off afterwards, there was abundant reason [to believe that he possessed]* abundant means to preserve it, and to pay the Company up every farthing. But you will find by Mr. Hastings' practice it is otherwise. 5 June 1794.

Mr. Hastings says, "I was not the author of that system." The authors of it are the persons whom he has thought proper to slander before you, but whom this country will ever respect, honour and revere, both the living and the dead, the dead for the living and the living for the dead, and altogether, for a conduct so honourable and glorious to Great Britain; and whose names stand unspotted, without the least imputation of oppression, breach of faith, perjury, bribery, or any fraud whatever, in their conduct. I know there was a faction against them, for that reason. Be corrupt, you have friends: stem the torrent of corruption, you open a thousand venal mouths against you. Therefore they are content with that opprobrium; and I am content, in the name of the living and the dead, to glory, in the name of the Commons, in having appointed some good servants at least to India.

Their high character.

"This system was not," says he, "of my making." Then you would imagine that the persons who made this abominable system had made some tyrannous use of it. What tyrannous use had they made of it? During the time of their majority there was an arrear [due from the Nawab];* —how the arrear came we shall consider hereafter;—but he proposed to pay it by taxing the jagirs of his family, and to take some money from the Begum. This was Mr. Bristow's scheme, at that time Resident for the Company in Oude, and a scheme to which Asoff-ud-Dowla and his advisers lent a willing ear. What does Mr. Hastings say to that? That it was a violent assumption. He did not, you see, then, allow that having a bad system justified any persons whatever in an abuse of it. He contended that it was a violent attack upon them; that it had no grounds or foundation under heaven; that it was contrary to every principle of right and justice. Yet afterwards, when, by his consent and the consent of the rest of the Council, this business was compromised between the son and the mother, and their relations; and

Scheme for paying the Nawab's arrears.

His compromise with the members of his family.

* Revised copy.

5 JUNE 1794. when that sum was taken, which was very great, and useful to the Company at that period of time, but which was [raised] by a family compact and arrangement among themselves sanctioned by the Company, Mr. Hastings himself consenting;—they were bound by the sanction that that should be the last of the demands, that it should not be taken as a violent demand, but as a friendly and amicable gift and donation; they never allowing nor the Nawab contending that he had any right to it at all;—at that time, Mr. Hastings' opinion was that the badness of the system did not justify any violence. In consequence of it he opposed this; and, when it was agreed between the parties as a family and amicable compact, he was as ready as any one to propose and sanction a regular treaty between the parties, that all claims on one side and all kind of uneasiness on the other should cease for ever, under the guardianship of British faith.

Guarantee proposed by Mr. Hastings.

Your Lordships remember that Mr. Hastings has here conceded that British faith is the support of the British empire; that, if the British empire is to be maintained, it is to be maintained by faith; that, if the British empire is to be propagated, it is to be propagated by public faith; that, if the British empire falls, it will be through perfidy and violence. These are the principles which he chooses to assume when he chooses to reproach other people. [But when he has to defend his own perfidy],* your Lordships have nothing to do but to look to the Defence before the House of Commons on the Benares Charge, [to see that] he denies, or at least questions, the validity of any treaty that can be made at present with India. Your Lordships will find, Mr. Hastings considers all treaties as being weakened by a considerable degree of natural doubt concerning their validity and their binding and conclusive force, in such a state of things as exists in India.

His general responsibility.

Whatever was done during that period of time by the majority, Mr. Hastings considers himself as having nothing to do with;—a principle which, as to other principles, I shall say something to by and by. Colonel Monson died. Soon after, General Clavering died; and Mr. Hastings did, in two years after [the period of the compact], which was at or about the year 1776, obtain a majority in the Council, and was then, as he calls it, restored to his authority; so that any evil that could be done by evil men under that evil system could have

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* Revised copy.

lasted indeed but for a very short time. From that moment forwards Mr. Hastings becomes responsible. In my opinion, he became responsible for every act done in the Council, while he was there, which he did not resist; he became responsible for every engagement which he did not oppose. For your Lordships will not suffer this miserable jargon that you have heard, shameful to office, shameful to authority, that a man, when he happens not to find himself in a majority upon any measure, may think himself excused for the total neglect of his duty; that he is not bound to propose anything that is proper to propose, or to resist anything that is proper to resist; [that as to] what is done by those who happen to compose the majority upon the several questions, though at the time he neither resists them nor proposes anything on the contrary, he may say, "My authority is annihilated." What does he assume by that? That he can never act in a commission; that, unless a man has the supreme power, he is not responsible for anything he does. This is another principle of his which your Lordships will look at, and see constantly asserted and constantly referred to. Now I do contend that, if there was any one thing that was to be done to resist oppression, he was bound to do that thing, though the day before he had not the majority; and that he was bound afterwards to propose any one thing that he thought could be a benefit. And therefore that proud, rebellious, proposition against the law, that one individual in the Council, may say, in effect, he is responsible for nothing because he is not the whole Council, I say, that principle calls for your Lordships' strongest reprobation. 5 June 1794.

His command of a majority in the Council.

I must beg leave to observe to you that the treaty was made—and I wish your Lordships to advert to dates—in the year 1775. Mr. Hastings comes to the majority in about something more than a year afterwards; therefore, supposing the acts of the majority of the Council ever so wicked, bad and iniquitous—and whose wicked acts he nowhere charges—it lasted but a short time. Mr. Hastings, from the year 1776 to 1784, had the whole government of Oude in him, as having the majority in the Council. My Lords, that is no offence—that a Governor General, or anybody else, has the majority in the Council. Having the government in them is no offence. It is no offence, if you please, that this man was virtually a vassal to the Company, as he contends he was. But it is not what a Governor General may do, but what Warren Hastings may do; for he who has a majority in Council, and records his acts in

5 JUNE 1794. Council, and does them so as to give a brother councillor his vote in the business, that man justifies the acts. They are legal: I mean the mode is legal. What the Governor General proposes he executes; and, if the Council have their objection to it, supposing him to be a despotic monarch, he may alter his opinion, but he ought to leave them theirs.

Now what we are going to prove is, that Mr. Hastings, finding, as he states, the Nawab made by treaty, in 1775, eventually, an optional vassal to the Company, thinks proper to make him a vassal to himself, and, for his own private purposes—your Lordships will see what corrupt and violent purposes they were—to annihilate the Council, to take wholly from them their power. And I am to tell your Lordships a fact, which appears upon your Minutes: that is, that he annihilated the Persian correspondence, which was the whole correspondence of Oude; that it was secreted and kept from the Council. It was never communicated to the Persian translator of the Company, Mr. Colebrooke, who had a salary for executing that office. It was secreted, and kept in the private cabinet of Mr. Hastings. From the period of 1781 to 1785 no part of it was communicated to the Council. There is nothing will speak for this man like himself: there is nothing will speak for his conduct like the records.

His suppression of the Persian correspondence.

"Fort William, the 19th of February, 1785.

"At a Council; present, the Honourable John Macpherson, Esq., Governor General, President, and John Stables, Esq.

Report of Mr. Colebrooke.

"The Persian translator, attending in obedience to the Board's orders, reports, that since the end of the year 1781 there have been no books of correspondence kept in his office; because, from that time until the late Governor General's departure, he was employed but once by the Governor General to manage the correspondence, during a short visit which Major Davy, the military Persian interpreter, paid by the Governor's order to Lucknow; that, during that whole period of three years, he remained entirely ignorant of the correspondence, as he was applied to on no occasion, except for a few papers sometimes sent to him by the secretaries, which he always returned to them as soon as translated.

"The Persian translator has received from Mr. Scott, since the late Governor General's departure, a trunk containing English drafts and translations, and the Persian originals, of letters and papers, with three books in the Persian language, containing copies of letters written between August 1782 and January 1785; and if the Board should please to order the secretaries of the General Department to furnish him with copies of all translations and drafts recorded in their consultations, between the 1st of January, 1782, and the 31st day of January, 1785, he thinks that he should be able, with what he has found in Captain Scott's trunk, to make up the correspondence for that period.

(Signed) "EDWARD COLEBROOKE,
"Persian Translator."

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Hear, my Lords, what becomes of the records of the Company, which were to be the vouchers for every public act—which were to show whether public faith was kept or no. You see them all sunk—where? In Mr. Scott's trunk! this trunk, into which they put what they please, take out what they please, suppress what they please, or thrust in whatever will answer their purpose. The records of the Governor General and Council of Bengal are kept in Captain John Scott's trunk—I beg his pardon—Captain Jonathan Scott's trunk; which is to be considered as the real and true channel of intelligence between the Company and the country powers. It is indifferent to us whether John or Jonathan Scott; all we know of it is they were completely hid from the Council, and when the Council, for the first time daring to think for themselves, call upon the Persian translator, he knows nothing about it. It is given into the hands of a person nominated by Mr. Hastings, Major Davy. What do the Company know of him? Why, he was Mr. Hastings' private secretary. In this manner the Council have been annihilated during all these transactions, and have got nothing but what Mr. Hastings and his trunk keeper thought proper to give them after the transactions; and that is a miserable, imperfect, garbled, correspondence, upon the very face of it. But, if it were a true and proper correspondence, what we charge is, its not being delivered to the Council at the time. Mr. Hastings kept the whole government of Oude in his own hands, so that the Council, *quoad* Oude, and *quoad* the power of judging of anything Mr. Hastings' had done in Oude, [was annihilated]; the power of checking, controlling, advising, or remonstrating against it, is gone. Therefore we charge it as an act of treason and rebellion against the Act of Parliament, that he never gave to the parties present any means of judging of affairs; which were never for the most part brought before them at all, except afterwards, when he had done some very strong thing, and wanted them to be his justification.

Practical annihilation of the power of the Council.

Your Lordships see that this is the system; a system of concealment, a system of turning the vassals of the Company into his vassals, to make them contributory not to the Company but to him. He has avowed it in Benares. He has avowed it in Oude. It was his constant practice. Your Lordships see, in Oude, he kept a correspondence with Mr. Markham for years, and did [alone] all the material acts the Council had to do. He authorised Mr. Markham, and

Secrecy observed by Mr. Hastings in his dealings with Oude.

5 June 1794. delegated a power he had not to delegate; and you will see he has done the same in every part of India. Therefore here we charge him with strong presumption of acting and meaning to act mischievously in the country by concealment. Next, we charge the concealing and withdrawing this correspondence as being directly contrary to the orders of the court of Directors, the practice of office, and the very nature and existence of his Council. We charge that as a substantive crime; and we say that it was the forerunner of another crime, which we afterwards charge, of oppressing, desolating and ruining, that miserable country.

Illegality of his conduct in the appointment of a Resident.

Mr. Hastings having thus rendered the Council blind and ignorant, consequently fit for subserviency, what does he next do? I am speaking not with regard to time, but with regard to the order of the proceedings. He flies in the face of the Company, on the same principle which I mentioned yesterday:—"I removed Mr. Fowke from Benares on political grounds," says he, "against the orders of the court of Directors, because I thought it necessary that the Resident should be a man of my own nomination and confidence." And therefore he proceeds on the same principle. Mr. Bristow had been nominated to the office by the court of Directors. Mr. Hastings by an Act of Parliament was ordered to obey the court of Directors. He positively refuses to receive Mr. Bristow, for no other reason but because he was nominated by the court of Directors. He defies the court of Directors, and declares that they shall not govern that province, but that he shall govern it by a Resident of his own. This is followed by a system, first annihilating his Council, formed by an Act of Parliament and by order of the court of Directors; defying, in the second place, the orders of the court of Directors, who had the undoubted and unbounded nomination of all their own servants, who ordered him under the severest threats to nominate Mr. Bristow to that office. He would not nominate Mr. Bristow to that office; and, even when he was forced against his will for a while to permit him to be there, he sent Mr. Middleton and Mr. Johnson there, who annihilated Mr. Bristow so completely that no one public act passed through him. I am now only upon the point of his defying the orders of the court of Directors.

What does he do after he had had this conflict with them upon that business? When he had entirely annihilated their authority, he resolved that the native powers should

know that they were not to look to the court of Directors, but to look to his arbitrary will; and therefore, to the astonishment of the world, after he had resisted Mr. Bristow he resisted them, for no other reason under heaven but because they would choose to have him there. He not only did this, but he exposed the nakedness of the Parliament of Great Britain, he exposed the nakedness of the laws of Great Britain, the nakedness of the authority of the court of Directors, to the country powers, in a letter, which is in page 795 of the printed Minutes; by which the secret of his government is told to the country people, that, if he destroys them, if he vexes them in any degree whatever, great or small, they are to look nowhere for relief, not to the Council, not to the court of Directors, not to the sovereign authority of Great Britain, but to him and him only.

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His contempt of legal authority.

First, we will read to you the manner in which he has dismissed him upon former occasions—it is in page 508 of the printed Minutes—that your Lordships may see yourselves the audacious defiance that this man gives to the laws of the country. Before we show you the horrible and fatal effects of [this, his defiance,]* we wish to impress continually that this man is to be tried by the laws of the country; that it is not in his power to annihilate the laws of this country and the authority of his masters. We insist upon it that every man under the authority of this country is bound to obey the laws of this country. This is the first removal of Mr. Bristow, in order to defy the court of Directors, so early as the year 1776:—

First removal of Mr. Bristow.

"Resolved, that Mr. John Bristow be recalled to the Presidency from the court of the Nabob of Oude, and that Mr. Nathaniel Middleton be restored to the appointment of Resident at that court, subject to the orders and authority of the Governor General and Council, conformably to the motion of the Governor General."

These are the orders of the Directors for his reinstatement. On the 4th of July, 1777; beginning page 693 of the book before quoted—page 508 upon your Lordships' printed Minutes:—

His reinstatement by order of the Directors.

"Upon the most careful perusal of your proceedings upon the 2d of December, 1776, relative to the recall of Mr. Bristow from the court of the Nabob of Oude, and the appointment of Mr. Nathaniel Middleton to that station, we must declare our strongest disapprobation of the whole

* Revised copy.

5 June 1794. of the transaction. We observe that the Governor General's motion for the recall of Mr. Bristow includes that for the restoration of Mr. Nathaniel Middleton; but as neither of those measures appear to us necessary, or even justifiable, they cannot receive our approbation.

"With respect to Mr. Bristow, we find no shadow of charge against him. It appears that he has executed his trust to the entire satisfaction even of those members of the Council who did not concur in his appointment. You have unanimously recommended him to our notice: attention to your recommendation has induced us to afford him marks of our favour, and to re-annex the emoluments affixed by you to his appointment, which had been discontinued by our order; and, as we must be of opinion that a person of acknowledged abilities, whose conduct has thus gained him the esteem of his superiors, ought not to be degraded without just cause, we do not hesitate to interpose in his behalf; and therefore direct that Mr. Bristow do forthwith return to his station as Resident at Oude, from which he has been so improperly removed."

[This is followed by an extract from the consultation of the 2d of October.]

"Mr. Francis moves that the 11th, 12th, and 13th paragraphs of the Company's general letter of the 18th of July, 1777, and the 149th paragraph of the general letter of the 23d December, 1778, be now read.

"Read the above mentioned paragraphs of the Company's general letters of the 18th of July, 1777, and the 23d of December, 1778:—

"Mr. Francis moves, that, in obedience to the Company's orders, Mr. Bristow be forthwith appointed and directed to return to his station of Resident at Oude, and that Mr. Purling be ordered to deliver over the charge of the office to Mr. Bristow immediately on his arrival, and return himself forthwith to the Presidency. Also that the Governor General be requested to furnish Mr. Bristow with the usual letter of credence to the Nabob Vizier."

Minute of Mr. Hastings.

"Read also from the same consultation extract of the Governor General's minute, beginning at page 64 of the same:—

"I will ask, who is Mr. Bristow, that a member of the administration should, at such a time, hold him forth as an instrument for the degradation of the first executive member of this Government? What are the professed objects of his appointment? What are the merits and services, or what the qualifications, which entitle him to such an uncommon distinction? Is it from his superior integrity, or from his eminent abilities, that he is to be dignified at such hazards of every consideration that ought to influence members of this administration? Of the former I know no proofs. I am sure that it is not an evidence of it, that he has been enabled to make himself the principal in such a competition; and for the test of his abilities I appeal to the letter which he has dared to write to this Board, and which, I am ashamed to say, we have suffered. I desire that a copy of it may be inserted in this day's proceedings, that it may stand before the eyes of every member of the Board, when he shall give his vote upon a question for giving their confidence to a man, their servant, who has publicly insulted them, his masters, and the members of the Government to whom he owes his obedience; who, assuming an association with the court of Directors, and erecting himself into a tribunal, has arraigned them for disobedience of orders, passed judgment upon them, and condemned or acquitted them as their magistrate and superior. Let the Board consider whether a man, possessed of so independent a spirit, who has already shown such a contempt of their autho-

5 June 1794.

rity, who has shown himself so wretched an advocate for his own cause and negotiator for his own interest, is fit to be trusted with the guardianship of their honour, the execution of their measures, and as their confidential manager and negotiator with the princes of India."

His opposition to the orders of the Company.

Then, my Lords, what I have to state your Lordships see in one moment—what I have taken the liberty of stating before, and I shall constantly repeat to you—that a tyrant and a rebel is one and the same thing. You see this man a direct rebel to the Company. They have ordered him to replace a servant displaced. Why did he displace him? Did Mr. Hastings accuse him of anything? No; on the contrary, he has joined in the approbation of his conduct and joined in voting him a pecuniary reward:—"We desire you to restore that person whom you have considered as a meritorious servant, yourself." The letter comes, and the man follows up the letter. He comes in a suppliant, decent, proper, tone as ever was, to desire that the Company's orders, which your Lordships have read, shall produce their effect, and that they would have the goodness to restore him to his situation.

My Lords, you have seen the audacious insolence, the tyrannical pride, with which he dares to write in that manner, and sends a recorded minute in Council to the court of Directors. You see that when he cannot asperse a man's conduct, which he has nothing to say against, he rests upon the principle of his independence, an idea that he has made an unjust fortune. Says he,—

> "You are to judge from the independence of his manner and style, whether he could or no have got that without some unjust means."

God forbid I should ever be able to invent anything that equals the insolence of what this man dares to write to his superiors, and the manner in which he dares to treat the persons who are not his servants! First, he states the insolence with which he has behaved to you his masters. Good God Almighty! Who made the servants of the Company the masters of the servants of the Company? The court of Directors are their fellow-servants: the whole are the servants of this kingdom.

Dissection of the minute.

Your Lordships would imagine that the other masters were quite enraged at his insolence. No; they are the very persons—the court of Directors—who ordered this to be restored to him. He considers that as the greatest violation of his rights; and the man who has no other guilt under heaven but being the object of these orders,—he throws

5 June 1794. every reflection upon his character and treats him with the highest indignity, after having treated his abilities with great respect, and which they desire, because he is a very able servant of the Company, he says:—"That it may stand before the eyes of every member of the Board, when he shall give his vote upon a question for giving their confidence to a man, their servant, who has publicly insulted them, his masters,"—by having the object which the court of Directors order—to be placed in an office which was in their gift and in their sole gift.

This is what he considers an insult;—people claiming their rights, claiming to hold under the authority of the court of Directors. This audacious tyrant is pleased to consider this as an insult to him. By which you may judge, not only how he treats the natives, but how he treats the servants of the Company, by what means he has brought them into this abject servitude under him, by which they are ready to do anything or sign anything that he dictates. Remark what he says;—because I will venture to say no such power ever appeared on the records of any Eastern durbar, or any European court;—he assumes [that Mr. Bristow] because he claims an office which is his right and his freehold as long as the Company chooses it—he considers his [claiming this] office is "having association with the court of Directors." This man, after long delays, has done nothing but present a humble petition to have the court of Directors' order in his favour carried into execution. But he says, "he has erected himself into a tribunal. He has arraigned them for disobedience of orders, passed judgment upon them, and condemned or acquitted them as their magistrate and superior."

Let us suppose that his Majesty was pleased to give an order for a man to any office in this kingdom which is undoubtedly in his gift, and which has been constantly and uniformly supposed and never denied to be an office in the king's gift; when this person claims this office,—"Why, then," says he "you condemn me. You assume yourself to be my superior, and you disgrace and dishonour me." Good God! my Lords, where was this language learnt? In what country and in what barbarous nation of Hottentots was this jargon learnt? Because there is no Eastern court—and, I protest, I believe I have been as conversant with the manners and customs of the East as most people whose business has not led them directly into the East—but I

never heard that any such thing was done. If the Grand Signor orders a Pacha of such a place to put a man into such an office, he puts his letters upon his head and obedience immediately follows. 5 June 1794.

But the obedience of no barbarous magistrate should be compared to the obedience which a British subject owes to the laws. He petitions,—

"Only put me in the office which the court of Directors have given me."

That is the whole of his offending!

"[A man] possessed of so independent a spirit,—"

There is the grievance; no man can dare show in India an independent spirit,—

—"who has already shown such a contempt of their authority, who has shown himself so wretched an advocate for his own cause and negotiator for his own interest, is unfit to be trusted with the guardianship of their honour, the execution of their measures, and as their confidential manager and negotiator with the princes of India."

What is this want of skill that he has shown in negotiating his own affairs? "Why, he should have pocketed the letter of the court of Directors: he should never have made the least mention of it. He should have come to my banya, Cantoo Baboo: he should have offered him a bribe upon the occasion. That would have been the way with me, who am a public-spirited taker of bribes and nazrs. But this base fool—this man 'who is so vile a negotiator for his own interest,' has dared to hint that the court of Directors would put him into that office." So he shows you first what the skilful mode of doing it would be: he has shown you what the unsuccessful mode of doing it would be. He has said it is an evidence of his want of integrity, that he has been enabled to make himself "the principal in such a competition; and for the test of his abilities, I appeal to the letter which he has dared to write to this Board, and which I am ashamed to say we have suffered." [Whatever that letter may be],* I will venture to say there is not a syllable of any word in it that tastes of such insolence and arbitrary power with regard to the Company's servants, and of audacious rebellion with regard to the laws of his country, and as I believe never appeared in any paper, as [in this minute of Mr. Hastings].*

Why did he choose to say Mr. Middleton was to be

* Revised copy.

5 JUNE 1794. named? Your Lordships have not seen Mr. Bristow: you only see him as an humble suppliant to obey the orders of the Company. But you have seen Mr. Middleton. You see Mr. Middleton is a good man to keep a secret. You have seen what Mr. Middleton is :—I describe him no more. You know what qualifications Mr. Hastings [requires] in a favourite; and you know why he was turned out by others, whose turning out was approved by the court of Directors; —because he went on in that very system, and the correspondence which he had with the country powers, when Resident in Oude, he positively, audaciously and rebelliously, refused to lay before the Council. He gave them up to Mr. Hastings. Mr. Hastings has destroyed them, and they are not found to this hour. We cannot even find Mr. Middleton's trunk. The whole correspondence of that country was refused to the Board, was refused to the legal authorities; and then Mr. Middleton, for that very refusal, was made to supersede Mr. Bristow, without a pretence of offence, but to reward him for that blind and servile weakness by which he dissolved every tie between him and his constituents.

Character of Mr. Middleton.

Then let us see the event. He was at issue with the Company upon this occasion; and what does he do, after defying the court of Directors, having declared this man of suspected integrity arising from his independence, and of want of ability by knowing not how to apply for his own objects? I beg your Lordships to remark the two things—first, want of integrity, and second, particularly, want of ability. As he was to be the confidential manager and negotiator with the princes of India, I wish your Lordships to observe upon the point of incapacity with which he accuses the Directors in the nomination of their agent. My Lords, what does he do after he cools? He does not know whether the court of Directors might not be inclined to assert their own authority, and to assert it in a proper manner, which they so rarely did; and therefore, when his passion had cooled, from those violent indignities offered to him, namely, to put him in mind that he has a superior under heaven—no other that I know of—then he divides the Residency into two. He makes a fair compromise between himself and the court of Directors, and he appoints Mr. Middleton to the management of the money concerns, and he appoints Mr. Bristow to the management of the political affairs. Your Lordships see here that the very disqualification

Alleged disqualification of Mr. Bristow.

Division of the Residency.

Appointment of Mr. Middleton and Mr. Bristow.

that he fixed upon him was a disqualification for political affairs. See what he gives to Mr. Middleton, the man of his confidence: he gives him the money affairs; which shows plainly where his heart was. Where your treasure is there will your heart be also. This secret agent, the man who stifles the correspondence—a man of that costive discovery and that most slippery memory—a memory that is lost and that passes through him like a diarrhœa, and a costiveness, a retention of what he does know, and at the same time this amazing dissipation and loss of memory—this very man he puts into the [management of the] money transactions, which is the place of suspicion; whereas he ought to have put in Mr. Bristow, who was responsible to the Company to keep clear and fair accounts. But he puts him into the political affairs, which he declares he was totally unfit for. 5 June 1794.

My Lords, examine and see what the reason is. You see here a rebellious purpose against the Company with regard to this country of Oude,—and for what? Why, that he should get the money transactions into his own hands. And he sends an incapable man, according to his description, to manage the affairs of the Company. I am giving this instance to your Lordships, which is as strong, in my opinion, as could be upon this point.

The only point I shall now trouble you with is what I asserted before, to show that he discovered the nakedness of the Company's power to the country powers. Soon after he had done all this, Mr. Bristow is obliged to come down; and then you would imagine he had done with him for ever—a man who dared to insult him, a man who had shown an independent spirit, a man who had dishonoured the Council, insulted his masters. What does he do with him? Why, my Lords, at a certain period of time he sends this very man, without any divided authority—he sends him up directly into the country again as sole [Resident]. And now permit me to state the manner in which he accounts for it to Gobind Ram, the ambassador or wakil of the Nawab Asoff-ud-Dowla, at Calcutta, by his own account of it—in page 795 of the printed Minutes:—

Reappointment of Mr. Bristow as sole Resident.

"Extract of an arzee written from Rajah Gobind Ram to the Vizier, by the Governor General's directions; written the 27th of August 1782.

"This day the Governor General sent for me in private. After recapitulating the various informations he had received respecting the anarchy and confusion said to reign throughout your Highness' country, and complaints that neither your Highness, nor Hyder Beg Khan, nor Mr. Middleton, nor Mr. Johnson, ever wrote to him on the state of your

Mr. Hastings' account of the transaction furnished by Gobind Ram.

5 JUNE 1794. affairs, or if he ever received a letter from your presence it always contained assertions contrary to the above information, the Governor General proceeded as follows:—That it was his intention to have appointed Mr. David Anderson to attend upon your Highness, but that he was still with Scindia and there was no prospect of his speedy return from his camp; therefore it was now his wish to appoint Mr. John Bristow, who was well experienced in business, to Lucknow; that, when Mr. Bristow formerly held the office of Resident there, he was not appointed by him, and that notwithstanding he had not shown any instances of disobedience, yet he had deemed it necessary to recall him, because he had been patronized and appointed by gentlemen who were in opposition to him, and had counteracted and thwarted all his measures; that this had been his reason for recalling Mr. Bristow; that since Mr. Francis' return to Europe and the arrival of information there of the deaths of the other gentlemen, the King and the Company had declared their approbation of his (the Governor General's) conduct, and had conferred upon him the most ample powers; that they had sent out Mr. Macpherson, who was his old and particular friend, and that Mr. Stables that was on his way here as a member of the Supreme Council was also his particular friend; that Mr. Wheler had received letters from Europe informing him that the members of the Council were enjoined, all of them, to co-operate and act in conjunction with him in every measure which should be agreeable to him; and that there was no one in Council now who was not united with him, and consequently that his authority was perfect and complete; that Mr. Bristow, as it was known to me, had returned to Europe, but that during his stay there he had never said anything disrespectful of him or endeavoured to injure him; on the contrary, he had received accounts from Europe that Mr. Bristow had spoken much in his praise, so that Mr. Bristow's friends there had become his friends; that Mr. Bristow had lately been introduced to him by Mr. Macpherson, had explained his past conduct perfectly to his satisfaction, and had requested from him the appointment to Lucknow, and had declared, in the event of his obtaining the appointment, that he should show every mark of his attention and obedience to the pleasure of your Highness, and his, the Governor's, saying that your Highness was well pleased with him, and that he knew what you had written formerly was at the instigation of Mr. Middleton; that, in consequence of the foregoing, he, the Governor, had determined to have appointed Mr. Bristow to Lucknow, but had postponed his dismission to his office for the following reasons:—*videlicet*, people at Lucknow might think that Mr. Bristow had obtained his appointment in consequence of orders from Europe, and contrary to the Governor's inclination; but as the contrary was the case, and as he now considered Mr. Bristow as the object of his own particular patronage, therefore he directed me to forward Mr. Bristow's arzee to the presence; and that it was the Governor's wish that your Highness, on the receipt thereof, would write a letter to him, and as from yourself request of him that Mr. Bristow may be appointed to Lucknow, and that you would write an answer to this arzee expressive of your personal satisfaction on the subject. The Governor concluded with injunctions that, until the arrival of your Highness' letter requesting the appointment of Mr. Bristow and your answer to this arzee, I should keep the particulars of this conversation a profound secret; for that the communication of it to any person whatever would not only cause his displeasure, but would throw affairs at Lucknow into great confusion. The preceding is the substance of the Governor's

directions to me. He afterwards went to Mr. Macpherson, and I attended him: Mr. Bristow was there. The Governor took Mr. Bristow's arzee from his hand and delivered it into mine, and thence proceeded to Council. Mr. Bristow's arzee and the following particulars I transmit and communicate by the Governor's directions; and I request that I may be favoured with the answer to this arzee and the letter to the Governor as soon as possible, as his injunctions to me were very particular on the subject." 5 June 1794.

My Lords, [I have to observe]* upon this very extraordinary transaction, that you will see there are many things in this letter that are very curious and worthy of being taken out of that abyss of secrets, Mr. Scott's trunk. It contains, as far as he thinks proper [to reveal it],* the true secret of the transaction. He confesses, first, the state of the Wazir's country; namely, "the various informations he had received respecting the anarchy and confusion said to reign throughout your Highness' territories." This was in the year 1782, during the pause of the communication of any of the correspondence to the Council;—always remarking that we speak of Mr. Scott's trunk.

Dissection of the letter.

He next stated, "that neither your Highness, nor Hyder Beg Khan, nor Mr. Middleton, nor Mr. Johnson, ever wrote to him on the state of your affairs." Here then are three or four persons, all nominated by himself, every one of them declared to be in his strictest confidence, the Nawab and his vassal, Hyder Beg Khan, being, as we shall show afterwards, entirely his dependants, [no less than] Mr. Middleton and Mr. Johnson, and yet Mr. Hastings declares that not one of them had done their duty, or written him one word concerning the state of the country or the anarchy and confusion that prevailed in it, but, when he received a letter from the Nawab himself, it always contained assertions to the contrary effect; that he, not having received regular informations, received irregular informations; and that every word which they wrote, if they wrote anything at all, and what was written by his Highness, was directly contrary to the informations he received. So he tells you himself that all the correspondence he kept there was a complete fraud. So he tells Gobind Ram, the Minister of the Nawab of Oude. He tells you that his reason for turning him out was, that he had been patronised by other gentlemen—who had a right to patronise him, and who did not patronise him [from private motives],* but in direct obedience to the order of the court of Directors.

* Revised copy.

5 June 1794. Then he tells you his assurance that he would be perfectly obedient to him, Mr. Hastings:—"The Governor saying that your Highness was well pleased with him, and that he knew what you had written formerly was at the instigation of Mr. Middleton."

Here is another discovery. When he recalled Mr. Bristow, he did it upon a pretence that the Nawab of Oude had desired it, and that he would not keep at his court a man that was disagreeable to him. Yet here, when the thing comes to be opened, it appears that Mr. Middleton had made the Nawab write a false letter. As your Lordships have never seen anything in such a strain of insolence, have you ever seen anything in such a strain of fraud and duplicity, as this?

The reason he postponed his dismission was "that the people of Lucknow might think Mr. Bristow had obtained his appointment in consequence of orders from Europe, and contrary to the Governor's inclination; but the contrary is the case, and he now considers Mr. Bristow as the object of his own particular patronage." He tells the people of the country, the reason why they are to receive the person appointed is, that he was not appointed by the Company; that he was under his own peculiar patronage. And, to remove from them the suspicion that he would obey the orders of the court of Directors, he proceeds in the manner I have read.

But here you see the Governor. You see the whole machinery of this business. This letter lets you into the whole of it completely. He removes Mr. Bristow, contrary to the orders of the court of Directors. Why? "Because," says he to the court of Directors, "the Nawab complained of him and desired it." Here he says, that he knew the Nawab did not desire it, but that the letter really and substantially was Mr. Middleton's. Why, as he recalls Mr. Bristow, so he wishes him to be called back, in the same factitious and arbitrary manner. They desire that Mr. Bristow shall be named:—"Write it here; send it to the Nawab. Let the Nawab send it back again to me as his desire, and then I will nominate Mr. Bristow." Good God! was there ever such a system of fraud? It proves that there is not one letter from that country, not one act of this Wazir, not one act of his ministers, not one act of his ambassadors or any other person, but what is false and fraudulent—upon the face of this very paper taken out of Mr. Scott's trunk, declaring

that he was to write a letter back again to Calcutta, which was sent to him from Calcutta, in order to be presented and to impose upon the Company as if it was his own desire. 5 JUNE 1794.

Humiliating position of the Company's servants and the princes of the country.

Think, my Lords, first, of the slavery of the Company's servants, subjected in this manner [to the arbitrary will and corrupt frauds of Mr. Hastings].* Next think of the situation of the princes of the country, who are obliged to complain without matter of complaint, to [approve] without matter of satisfaction, and to have all their correspondence fabricated by Mr. Hastings at Calcutta. This is to show you that whatever correspondence was in Mr. Scott's trunk was, in reality, as fraudulent as the records of the Company, which are grossly and corruptly defective, and that there is not one word of truth in the whole. Says he, "I sent Mr. Middleton and Mr. Johnson." Why? "Because they are my confidants:—every word they tell me from the country is directly contrary to truth. Then, to set the matter right and clear, I sent up another man." Why? "Because I had confidence in him. I had conceived wrong ideas of him, because he was nominated by the Company; but you are now to consider him as my own nomination, and therefore I send him up into the country; but still not as my man, for you must desire it, and make it an act of yours, that the Company may not see the fraud that I have practised. First refusing a man as an unfit man, and then nominating him as a proper man—that would be extraordinary indeed; but, lest it should be suspected by you or anybody else that I name him upon any known principle whatever, come—take it upon yourself. Write a letter here: let it come back, and that shall become your act and not mine."

Employment of Gobind Ram.

Who was the instrument of this double dealing? Gobind Ram. A suspicion arises in his mind whether he is not cheated and defrauded again. He could not tell when he had Mr. Hastings. He finds him recommending Mr. Middleton, and then declaring that Mr. Middleton neglects the duty of his office—that when he gives him any information at all, which is rarely, that it is fraudulent and directly contrary to the truth; "and therefore," says he, "I recall this man, and send up another man." Well, he then trusts this man. The other, knowing how often he had been deceived, knowing the perfidy of the people, hated the dirty correspondence of an English office under Mr. Hastings.

* Revised copy.

5 JUNE 1794. He knew his innumerable frauds, falsehoods and prevarications. He knew that the whole pretended government of Oude was, from beginning to end, a deception; that it was an imposture, for the purposes of corruption and peculation. The Nawab is really at a loss to know who has or who has not his confidence; whether he obeys the orders of the court of Directors, and whether their order is to be obeyed. He writes to Gobind Ram—who, I suppose, is exactly in the same uncertainty:—

Servility of the Nawab.

"As to the commands of Mr. Hastings which you write, on the subject of the distraction of the country and the want of information from me, and his wishes that as Mr. John Bristow has shown sincere wishes and attachment to Mr. Hastings,—the sole ground of nominating any one,—I should write for him to send Mr. John Bristow, it would have been proper," says he, "and necessary for you privately to have understood what were Mr. Hastings' real intentions"—

So that, when he was sending up the man, after giving the strongest assurance of his real intentions and his confidence in him, and sending to the Nawab a letter to be written, desiring to make it the Nawab's own act, the Nawab reprimands his wakil for not endeavouring to discover what were Mr. Hastings' real intentions:—

"whether the choice of sending Mr. John Bristow was his own desire, or whether it was in compliance with Mr. Macpherson's, that I might then have written conformably thereto. Writings are now sent you for both cases."

So he sends him a letter of rejection and a letter of reception, just as the wakil should be able to discover which fraud of Mr. Hastings was to be relied upon; and accordingly he says:—

"I send you two letters. Having privately understood the wish of Mr. Hastings, deliver whichever of the writings he should order you; for I study Mr. Hastings' satisfaction. Whoever is his friend is mine; and whoever is his enemy is mine. But in both these cases my wishes are the same; that, having consented to the paper of questions which Major Davy carried with him, and having given me the authority of the country, whomever he may afterwards appoint, I am satisfied. I now am brought to great distress by these gentlemen, who ruin me. In case of consent, I am contented with Majors Davy and Palmer. Hereafter, whatever may be Mr. Hastings' desire, it is best."

Here is a poor, miserable, instrument, confessing himself to be so, ruined by the agents, Mr. Middleton and Mr. Johnson —ruined, as he says, by the private, not ostensible, agents, Major Davy and Major Palmer—ruined equally by them all—declaring that he was undone by these gentlemen,— "But if you have a mind really to keep Major Davy and

Major Palmer here, why I must consent to it. Do what you please with me: I am your creature. For God's sake, let me have a little rest." 5 June 1794.

Now, my Lords, was there ever such a discovery? Was there ever, in any theatre, the ostensible part of the scene, and all the crooked machinery that is behind these scenes, so developed and laid open, in the world? You have, by the master of the mechanism of the great opera of India—an opera of fraud, deception, tricks and harlequin proceedings—you have it all laid open before you. The ostensible stage is gone; it is vanished from your sight: all the strutting signors and all the soft signoras are all gone, and you see nothing but wood, sticks, ropes and machinery. All the fine and brilliant spectacle—sun, moon, and stars, and descending chariots, are all false and fraudulent; and you see the whole trick at once. And this we owe to the trunk of Mr. Scott! Never was there, I believe, so valuable a trunk. No casket of jewels, no precious chest of treasures, was ever taken out containing [anything so valuable as] such a discovery of the real state of Mr. Hastings' government in India. [There is] not one thing that is true. And can your Lordships believe that all this scene of fraud, prevarication and falsehood, with the Defendant, in company with a dependant of the Company, with a vassal of the Company, with a person that has no political connection in the world, can be for anything but that robbery, corruption and peculation, by which he has destroyed one of the finest countries upon the earth? Is it necessary, after this, for me to tell you that you are not to believe one word of the correspondence, as stated by him, in India? This goes to the whole matter of the whole government of the country. You may see what the government was, and by and by you shall see the effects of it:—

Fraudulent character of the correspondence produced by Mr. Hastings.

"Extract of a letter from Hyder Beg Khan, received the 21st of April, 1785. [Printed Minutes, page 779.]

Letter of Hyder Beg Khan.

"I hope that such orders and commands as relate to the friendship between his Highness' and the Company's Governments and to your will may be sent through Major Palmer, in your own private letters or in your letters to the Major, who is appointed from you at the presence of his Highness, that in obedience to your orders he may properly explain your commands; and whatever affairs may be settled, he may first secretly inform you of it; and afterwards his Highness may, conformably thereto, write an answer, and I also may represent it. By this system your pleasure will always be fully made known to his Highness, and his Highness and we will execute whatever may be your orders, without deviating a hair's breadth; and let not the representations of interested

5 JUNE 1794. persons be approved of, because his Highness makes no opposition to your will; and I, your servant, am ready in obedience and service, and I make no excuses."

We see this trunk producing the effects of Aladdin's lamp, [of which] your Lordships can read in books much more worthy of notice and consideration—for anything but discovery of his guilt—than Mr. Hastings' correspondence. We hear the whole system, as it is called by the very word and name of a system—O! I am mistaken: upon my word I beg pardon. This is not in the trunk. However, it smells of the trunk; it smells of the leather; it tastes of the cask. I thought that I was as proud as Sancho Panza was that one of his ancestors could distinguish that the taste of the wine was from the iron, another that it was from leather. Afterwards it was found that there was in the cask a little key tied with leather, and so it tasted both of the iron and the leather. Now whether this tasted of the leather of the trunk or the iron of [Mr. Macpherson],* I confess I was a little out in my suggestion and my taste. It was afterwards that there was a discovery of this system made to Mr. Macpherson, when he succeeded to the government, and it was necessary that he should know all. Mr. Hastings having the key tied with the leather, it was necessary that he should have that key to all Mr. Hastings' proceedings; that he should act exactly in the same manner, and that he should make [the Nawab], in the same manner, the instrument of his own ruin and undoing.

This is written to Sir John Macpherson, newly inaugurated into his government, and who, notwithstanding his considerable transactions in India, might be supposed not to be in the best of Mr. Hastings' secrets—that Mr. Hastings might not have put the trunk into his hands and let him know every part of the secret of the business. But, however, here is an extraordinary trunk, much in the manner of the other. By it the Nawab lets him know the secret of the business. It is plain that the Nawab considered it as a system not to be altered; that there should be nothing true in that government. When you see that, there can be little doubt about what happens hereafter, and I am sure it will clear a great way upon this subject.

Mr. Hastings having then thrown off completely the authority of the Company, as you have seen—having tram-

* Revised copy: "the Nawab" in MS.

pled upon their servants who have considered any mark of independence or any mark of looking at the Directors' orders a rule of conduct—when he has brought any Englishman under his yoke, bowed his neck to obedience to him, made him a supple and fit instrument for all his designs, then he thinks that possibly he may employ him. Consider the effect of this upon the whole service. Not one man that considers the authority of the Directors is to be considered himself, or to have anything. So that he not only rebels himself in his own person against the authority of the Company, but he makes all the servants—every being—depend upon joining him in this very rebellion. Think what a situation: and I wish it never to go out of your minds, that I consider him as the captain general of the whole host of Indian iniquity, under whom it is arrayed, disciplined and paid. And this language I used here was not — as fools have thought proper to call it — offensive and abusive language; it is in a criminatory tone, and it is justified by the facts that I have stated to you, and will be justified still more and more. I take it as a text upon which I mean to preach. I take it as a text which I wish to have in your Lordships' memory from the beginning to the end of this—that he is not only guilty of iniquity himself, but is at the head of the whole host of it, and will not suffer with impunity any one honest man to exist in India, if he can help it. Every mark of obedience to the Company is by him condemned; and if there is any virtue remaining in India—which I think there is—it is not his fault that it exists there.

5 June 1794.

Demoralising effect of Mr. Hastings' system upon the Company's servants.

We have next shown you the servile obedience of the natives of the country; the miserable situation to which a great prince—who was the other day a great prince—is reduced by a system, namely, Mr. Hastings' system; that, when any person is dependent on the Company, he ruins him and makes him the instrument of his own degradation and his own ruin; he makes him the instrument of his falsehoods; he makes him the instrument of his peculations; that there is not one word in the correspondence to be trusted, and that the whole of it is the most odious fraud, for the purpose of the most odious violence and the most odious corruption.

His appropriation of Oude.

Mr. Hastings, having assumed the government to himself, made Oude a private domain, or, as in that place they called it, his park or his warren. There was some name by which

5 June 1794. it was known publicly to be a place which he had, as if it were a place for gain; where he drew out, or killed if he thought fit, anything that was proper, and brought it to his table, at the earlier or the later season, according as served his purpose. Whether a man gets a situation by law or by usurpation, there is a duty that attaches in itself to every situation; and what is the duty he has attached to that situation?

The first duty every person is to have in any business of the state is, to take care of that vital principle of it—its revenue. The next is to preserve its magistracy and legal authority in honour, respect and force. And lastly, to preserve the property, moveable and immoveable, of all the people committed to his charge.

Mal-administration of the revenue.

Now, with regard to the revenues, I wish your Lordships to see, from the 3,000,000*l.* and upwards which I stated to be the revenue of Oude, and which Mr. Hastings, I believe, has never thought proper, or anybody for him, to deny. It sunk to about 1,440,000*l.*; and that, says Mr. Middleton, upon your Minutes, was not completely realised. So we see that country, after Mr. Hastings had it in his private management, by these private means, sunk in its whole revenue to less than half, and that badly levied and not completely realised. Well, but it was owing to the Nawab's own imprudence. No such thing. The whole real government of the country was in Mr. Hastings' agents, public and private. But, to let you see how provident the management of it was, I shall produce to your Lordships one of the principal manœuvres that he took for the improvement of the revenue, and the happiness and prosperity of the country, which always will go more or less with it.

Application of the Nawab for the assistance of British officers.

The Nawab, whose acts now your Lordships have learned to appreciate—that is to say, that they are Mr. Hastings' acts—writes to have a body of British officers, to put his troops in order, for the better government and order of the country, and for the better collection of his revenues. They were to be officers; that is all you know of it. It was ostensibly a very fair and proper act; and, if I had been in the Council at that time, and the Nawab had really and *bonâ fide* made such a request, I should have said he had done a very reasonable thing, and that the Company ought to aid him in it, to correct the disorders in that country.

Appointment of Col. Hannay.

Among these officers sent there, was this well known —and it will be bitterly and long known in India—name of

Colonel Hannay. This person, we understand, was a recommendation of Sir Elijah Impey to Mr. Hastings, and a natural fruit of that patronage. I say a natural and just fruit, because Sir Elijah Impey appears on your Minutes to be Mr. Hastings' private agent and negotiator in Oude; and in that light, and in that light only, I consider [Colonel Hannay],* in this business. But we cannot prove that he was not of Mr. Hastings' own nomination, originally and primarily. We are therefore to take him, whether recommended by Sir Elijah Impey or anybody else, to be Mr. Hastings' nomination; and, as Mr. Hastings is responsible for it just the same, it makes no difference. 5 JUNE 1794.

Colonel Hannay is sent up under this name, and has two regiments, I think, a brigade, given to him to have the command of. Here all is fair and easy. But we find, as everything is masquerade and disguise in that place, that this man, instead of being an officer, farmed the revenue; as is proved by Colonel Lumsden and others, gentlemen who were his sub-farmers and his assistants there. He was given to the Nawab under an appearance of a commander of troops, and it was not till lately, and until our inquiry, that it was discovered that he was farmer-general of the country. I believe, till our inquiries began, it was unknown in Europe. But we have proved upon your Lordships' Minutes, by an evidence produced by Mr. Hastings himself, that Colonel Hannay was farmer-general of the country of Baraitch and Goruckpore. We have proved upon your Minutes that Colonel Hannay was the sole power in that country—that there was no magistrate in it, nor no law whatever. We have proved to your Lordships that, in his character of farmer-general, he was supported by his character of commander of a battalion; that the whole power, civil, military and municipal, resided in him, the farmer-general; and, further, we refer your Lordships to Mr. Lumsden and Mr. Halhed, concerning his situation in that country. Your Lordships, I am sure, will supply with your diligence what is defective in my statement, when I have taken the liberty of indicating to you where you are to find it. You will find him, therefore, in a false character. He is given to the Nawab as a commander of his troops, and in reality he is forced upon him to be his farmer-general. He is forced

His real position that of farmer-general.

* Revised copy.

5 JUNE 1794. upon him to have the command of the country, and there is no control to prevent him getting what he pleases.

His arbitrary power.

If we are asked what the terms were of his farm:—we cannot discover that he farmed the country at any certain sum. We cannot discover that he had any terms, or that he was limited from exacting from the natives whatever terms he pleased. Armed with such arbitrary powers, under such a false title, we are now to ask what control there was upon him, to restrain him from robbing and ruining the people as he pleased, and from robbing the exchequer of the person whose revenue he had farmed?

His oppressive conduct.

You are told by the witnesses, in the clearest manner—and after the statement you have heard you cannot doubt it —that nobody dared to complain against him; that the Nawab dared not complain against him; that he was considered as supported by the power of the British Government. And it is upon the evidence before you, in one of our Articles of the Charge—I believe it is in the twelfth and thirteenth Articles—we prove to your Lordships that he vexed and harassed the country, which you may easily believe, under such false names with such real powers, he naturally would do. We proved that some of the principal zamindars in that country, that held at but 27,000 rupees a year, he forced to pay 60,000;—one of the witnesses says he might perhaps have been contented with 50,000;—that, upon a refusal of this business, he was driven out of the country. That was Gineroy. The charge is in the twelfth and thirteenth Articles; by which you will see how far the evidence does or not apply to it.

Imprisonment of the natives.

It is given out that we have produced only three or four Charges. We have given you evidence upon a good many more, but this in particular we have given you evidence of, because it is within what Mr. Hastings calls his system. We find by the evidence that the country was cruelly harassed. You have it upon Mr. Halhed's evidence—it is not attempted, that I know of, to be contradicted—that the people were confined in open cages for pretended or for real arrears of revenue. It is indifferent which, because, the thing being arbitrary, I consider all confinement to support an arbitrary exaction to be an abomination; though they have endeavoured to weaken the authority of the evidence, by proving that a man day and night in confinement in an open cage suffers no inconvenience. The costive evidence is all of one and the same kind,—the most extreme unwillingness to

discover anything. [Their testimony is]* drawn like drops from them. Their answers to our questions are—"Yes," and "No," with no liberality; but when examined on the other side, flowing as free as if drawn from a perennial spring. But we have proved that there they were till they could be lodged in dungeons or mud forts. We have proved that they were obliged to sell their children. We have proved that they fled their country, and that he was obliged to issue orders against the selling children. They attempt to prove that it had been a common practice in that country; and possibly some person as wicked as he might have been there before at some time or other; but no person ever yet sold their children, but under the idea of some cruel exaction. Nature calls out against it. The love that God placed in parents to their own children is the first [germ]† of that second conjunction which has been made among mankind—is the first bond and first formation of society. It is stronger than all laws; for it is the law of nature, which is the law of God. Never did a man sell his children who was able to maintain them. Therefore [having proved] the exactions that he made, that proof alone, beyond all others, must prove that the exactions were intolerable.

5 June 1794.

Order against the sale of children.

Then people flying the country! Next to the love of parents to their children, the dearest and strongest instinct, both natural and moral, that is in man, and which indeed extends to the brute creation just the same way—for all creatures love their offspring—next to that, they love their homes, they love their houses, they love their country.‡ We know that the natal soil has a sweetness in it that is beyond that of any harmony of verse—which whether I quote right or quote wrong signifies nothing. I say that it binds people, and never suffers them to want a memory of it; and therefore those who fly their country fly from oppression. Why, then, is this true? "O!" says he, "Colonel Hannay was obliged to put turnpike bars and guards, to confine them in the country." We have seen, therefore, nature violated in its strongest principles. We have seen an unlimited, arbitrary, exaction avowed; and no pretence of a law, a rule, or a mode by which these people were to be treated; and we see these effects proved before your Lordships by costive witnesses upon this affair.

Desertion of the country.

* Revised copy.

† Revised copy; "fruits" in MS.

‡ Mr. Burke appears to have here introduced a poetical quotation, but which has not been reported by the short-hand writer.

5 JUNE 1794.

Rise of the rebellion.

We see that, after this happened, a violent rebellion arises in the country, which one would naturally expect from it. The persons who had been under various pretences defrauded rise in general. These are all in evidence before your Lordships. There is much more that, if we were to go out of the line of evidence, we might state upon this occasion. The prisons or mud forts, and all the forts, were full of prisoners, and hostages for prisoners. The country rises, as if it were by common consent. The country rose in an insurrection. Every farmer, every proprietor of land, every man who loved his kingdom, [and had not fled for]* refuge, these people rose in a just rebellion and insurrection against the authority of Colonel Hannay, who was there, in defiance of the laws and rights of the people, exercising a clandestine, illegal, unavowed, authority, against which there can be no rebellion in the proper sense.

Attack on the fort.

We find one hundred and fifty shut up in one fort. The people of the country in their rage attacked the fort; called for the prisoners; they called for their brothers, their fathers, their husbands, confined there. It was attacked by the joint assault of men and women; and when the people within the fort joined the people without, the person who commanded in that fort cuts off the heads of eighteen of the principal prisoners, and tosses them over the battlements to them. There was still in it a man loved, honoured, respected, in his country. Whether justly or not justly, he was a man much esteemed: — "Give us our Raja, Mustapha Khan." We asked the witness what he was confined for. He did not know; but that Colonel Hannay had confined him, and said he was sentenced to death. We desired to see the fatwa of the judge who sentenced him. No; no such thing. We desired to know whether he could give any account of the process, any account of the magistrate, any account of the accuser, any account of the defence; whether he could give any account whatever of this man being condemned to death. He could give no account of it, but the arbitrary will of Colonel Hannay. Colonel Hannay sends to this desperate man, [the commander of the fort],* bloody with the murder of all the people who were murdered in the fort—Colonel Hannay sends,—"If you have not executed Mustapha Khan, execute him immediately." He is staggered at the order. This is Ahlaud Sing: he says,—"No; the order is not sent

* Revised copy.

to me, I will not execute it." This Mustapha Khan imprisoned there is sentenced to death by Colonel Hannay, without judge, without accuser, without any evidence, without the fatwa or sentence of the law, without which no Mussulman can be put to death: this man is thus put to death by an arbitrary villain and cruel tyrant, Colonel Hannay, the substitute of a ten thousand times more cruel tyrant, Mr. Hastings!

Illegal execution of Raja Mustapha Khan.

He gets a Captain Williams, who has appeared here as an evidence at your bar, and who appears to be one of the body—Captain Gordon, and Major Macdonald, and Captain Williams — all witnesses, and all sub-farmers and actors under this person;—this Captain Williams comes there, and without asking one of those questions which I asked, and desiring nothing but Colonel Hannay's word for it, orders this man, beloved and honoured by the whole country, to be beheaded. Accordingly he was beheaded, in consequence of the orders of Colonel Hannay. Upon this, a rebellion blazed out with tenfold fury. They declared, "We will be revenged for the destruction of our zamindar." In this situation was the country under Colonel Hannay, when that great rebellion broke out.

Removal and reappointment of Col. Hannay.

But, in the intermediate time, Colonel Hannay was removed from this place. The knowledge of his misconduct had induced this miserable Nawab to make one effort to remove him from his place. Mr. Hastings forces him to receive him again, with a civil reprimand; telling him,—"I do not force you to receive him."—Indeed his situation was force enough. He forces him to receive him again; and again he ravages and destroys that devoted country, till the time which I have last stated to you, when he was driven out of it finally by a rebellion; and, as you would imagine, he parted like a leech full of blood. This leech full of blood went back to Calcutta. Your Minutes declare that he was there supposed, from a state of debt in which he was known to be, to have come down with a handsome sum, out of this country of Oude, of 300,000*l.*, of which 80,000*l.* in gold mohurs made a part. They declare it to be the universal opinion; and no man ever contradicted it. Ten have said it: none have contradicted it. From that hour to this I never heard a man contradict it. Whether his family have the whole of it; what shares or partnerships there were in this business; who was to get, or who had got very large dividends, according to the public opinion, we cannot tell: but there ended the life and exploits

His final retirement to Calcutta.

5 JUNE 1794. of Colonel Hannay, farmer-general, civil officer, military commander of Baraitch and Goruckpore. But not so ended Mr. Hastings' proceedings.

This miserable Nawab had received an account, which concurrent public fame had supported, that he meant to send him up in the country again on a second expedition; probably with such an order as this:—"You have now sucked blood enough for yourself, now see what you can do for your neighbours, and we will send you up again." The Nawab was not likely to be misinformed. His friend and agent, Gobind Ram, who was there and had constant access to all Mr. Hastings' people—and Mr. Hastings tells you the orders that all these wakils have to find out all his transactions—he believed that Mr. Hastings meant to send this man again into the country, and he expresses the horror of this to the Nawab, who had been in this subservient and dejected state that I have stated. Judge you what Colonel Hannay must be from this declaration extorted from the mouth of that miserable slave, the Nawab. It is in page 660 of the printed Minutes:—

Protest of the Nawab against his reappointment.

"My country and house belong to you: there is no difference. I hope that you desire in your heart the good of my concerns. Colonel Hannay is inclined to request your permission to be employed in the affairs of this quarter. If by any means any matter of this country dependent on me should be entrusted to the Colonel, I swear by the holy prophet that I will not remain here, but will go from hence to you. From your kindness let no concern dependent on me be entrusted to the Colonel; and oblige me by a speedy answer which may set my mind at ease."

We know very well that the Defendant denies, as he will naturally, his intention to send him up. But he cannot deny that there was such a terror in the minds of the people of his sending him up; which plainly showed that they considered that there was ground enough to charge him with it, which his denial cannot do away. For why did he send him there before? What reason [was there] why he should not be sent a third time who had been sent twice before? None; because every particle of his proceedings was perfectly well known.

Now, suppose it was a false report:—it shows all that the Managers wish to show,—the extreme terror with which these creatures of Mr. Hastings struck that country and its government. Let us see the effect of it. Captain Edwards tells you he passed through that country; that he considered it as fallen from its former state. Mr. Holt says, it has fallen from its former state; that whole towns and villages

Desolation of the country.

were peopled no longer; that the country carried evident marks of a famine having been upon it. Look at the evidence of Captain Edwards, an untainted man. He passed over the country again and again, and he tells you [it bore] the marks of savage desolation, which you would expect to find after such an operation as was performed on these provinces by Colonel Hannay and Captain Gordon. But one would have thought it would have satiated Mr. Hastings. No. He finds a Major Osborne;—I do not know whether it is in your evidence, but we find that this Balfour, whose curious evidence you have had upon this occasion, was farmer-general of Rohilcund;—at least, there was a third military collector, Major Osborne. This gentleman had suffered in his preferment; for a court-martial—whether from justice or from injustice I neither know nor care—had removed him from that situation. He, who saw the upper country and who knew it, made a representation of a nature to show you what that country was; and there you will see how he corrected the grievances. When he was appointed to the command of a thousand men, I believe, but really to the administration of the revenues of the country, he administered them much in the same manner as Colonel Hannay did. However, he made a partial representation, the substance of which was that the countries were in a horrible state of confusion and disorder, suffering every mode of peculation. It is upon the Company's records. It is not produced in evidence, but your Lordships may find it, for it is printed over and over again. But he produces this.

5 June 1794.

Appointment of Major Osborne.

This man goes up. The Wazir with the same complaints and the same cry obliges him to recall him. Then we will go to the rest. We will go and see what the Wazir complains of; what he suffers from all the other British officers. By which you will see in what state Mr. Hastings left that country, when the officers, under pretence of defending it, were invested with various powers, either in the revenue, the collection of the customs, or the monopoly of markets, or other horrible abuses.

"Copy of a letter from the Nabob Vizier to Gobind Ram,"—[page 788 of the printed Minutes.]—

Complaint of the Nawab against the British officers.

—Before this, there is a letter from the Nawab Asoff-ud-Dowla, received the 1st of February, 1781:—

"All the officers stationed with the brigade at Cawnpore, Futtygur, Darunghur, and Furrackabad, and other places, write perwannas and give positive orders to the aumils of these places respecting the grain, &c.;

5 JUNE 1794. from which conduct the country will become depopulate. I am hopeful from your friendship that you will write to all these gentlemen not to issue orders, &c. to the aumils, and not to send troops into the mahals of the sircar; and for whatever quantity of grain, &c. they may want, they will inform me and the Resident, and we will write to the aumils, who shall cause it to be sent them every month, and I will deduct the price of them from the tuncahs. This will be agreeable both to me and the ryots."

"A copy of a letter from the Vizier to Rajah Gobind Ram:—

"I some time ago wrote you the particulars of the conduct of the officers, and now write them again. The officers and gentlemen who are at Cawnpore, Futtygur, and Darunghur, and other places, by different means, act very tyrannically and oppressively towards the aumils, and ryots, and inhabitants; and to whomsoever that requires a dustuck they give it with their own seal affixed, and send for the aumils and punish them. If they say anything, the gentlemen make use of but two words; one—that is for the brigade; and the second—that is to administer justice. The particulars of it are these, that these bipparies will bring their grain from all quarters and sell for their livelihood. There is at present no war to occasion a necessity for sending for it. If none comes, whatever quantity will be necessary every month, I will mention to the aumils that they may bring it for sale. But there is no deficiency of grain. The gentlemen have established gunges for their own advantage, called Colonel Gunge, at Darunghur, Futtygur, &c.

Establishment of private gunges.

"The collections of the customs from all quarters they have stopped, and collected them at their own gunges. Each gunge is rented out at 30,000 or 40,000 rupees, and their collections paid to the gentlemen. They have established gunges where there never were any; and where they were, those they have abolished. 30,000 or 40,000 rupees is the sum they are rented at. The collections, to the amount of a lac of rupees, are stopped. Major Briscoe, who is at Darunghur, has established a gunge which is rented out for 45,000 rupees, and has stopped the gauts round about the bipparies; and merchants coming from Cashmere, from Shah Jehanabad, and bringing shawls and other goods and spices, &c. from all quarters, he orders to his gunge, and collects the duty from the aumils, gives them a chit, and a guard who conducts them about five hundred coss. The former duties are not collected. From the conduct at Cawnpore, Futtygur, Furrackabad, &c., the duties from the lilla of Gora and Thlawa are destroyed, and occasions a loss of three lacks of rupees to the duties; and the losses that are sustained in Furrackabad may be ascertained by the Nabob Mozuffer Jung, to whom every day complaints are made. Exclusive of the aumils and collectors, others lodge complaints. Whatever I do, I desire no benefit from it. I am remediless and silent. From what happens to me, I know that worse will happen in other places: the second word I know is from their mouths only. This was the case in this country formerly, and even now, whatever is to be received or paid among the zemindars, ryots, and inhabitants of the cities, and poor people, neither those who can pay or those who cannot pay ever make any excuse to the shroffs; but when they could pay they did. In old debts of fifty years, whoever complain to the gentlemen, they agree that they shall pay one fourth and send dustocks and sepoys to all the aumils, the chowdries, and canoongoes, and inhabitants of all the towns; they send for every body, to do them justice, confine them, and say they will settle the business. So many and

numerous are these calamities that I know not how much room it will take up to mention them. Mr. Briscoe is at Darunghur: and the complaints of the aumils arise daily. I am silent. Now Mr. Middleton is coming here, let the Nabob appoint him for settling all the affairs, that whatever he shall order those gentlemen, they will do. From this every thing will be settled, and the particulars of this quarter will be made known to the Nabob. I have written this which you will deliver to the Governor, that everything may be settled; and when he has understood it, whatever is his inclination he will favour me with it. The Nabob is master in this country, and is my friend: there is no distinction." 5 June 1794.

[Letter from the Wazir to Mr. Middleton;] entered upon the consultation of the 4th June 1781; page 1687 of the Minutes.

"I have received your letter requesting leave for a battalion to be raised by Captain Clark on the same footing as Major Osborne's was, agreeable to the requests and complaints of Ishmael Beg, the aumil of Allahabad, &c., and in compliance with the directions of the Council. You are well acquainted with the particulars and negotiation of Ishmael Beg, and the nature of Major Osborne's battalion. At the beginning of the year 1186 (1779), the affairs of Allahabad were given on a lease of three years to Ishmael Beg, together with the pergunnas Arreel and Parra; and I gave orders for troops to be raised and stationed conformable to his request. Ishmael Beg accordingly collected twelve hundred peons, which were not allowed to the aumil of that place in the year 1185. The reason why I gave permission for the additional expense of twelve hundred peons was that he might be enabled to manage the country with ease, and pay the money to Government regularly. I besides sent Major Osborne there to command in the mahals belonging to Allahabad, which were in the possession of Rajah Ajeit Sing; and he accordingly took charge.

Case of Ishmael Beg.

"Afterwards, in obedience to the orders of the Governor General Mr. Hastings, Jelladut Jung was recalled and the mahals placed as before under Rajah Ajeit Sing. I never sent Major Osborne to settle the concerns of Allahabad, for there was no occasion for him; but Major Osborne of himself committed depredations and rapines within Ishmael Beg's jurisdiction. Last year the battalion which, by the permission of General Sir Eyre Coote, was sent, received orders to secure and defend Ishmael Beg against the encroachments of Major Osborne; for the complaints of Ishmael Beg against the violences of Major Osborne had reached the General and Mr. Purling; and the Governor and gentlemen of Council at my request recalled Major Osborne. This year, as before, the collections of Arreel and Parra remain under Ishmael Beg. In those places, some of the talookdars and zemindars who had been oppressed and ill-treated by Major Osborne had conceived ideas of rebellion."

Depredations of Major Osborne.

You now see a statement of Daranagur, Futtygurh, and Furruckabad, and of the whole line of our military stations in the Nawab's dominions, that it was one universal scene of plunder and rapine. You see every one of these were made known to Mr. Hastings. You see Mr. Hastings has not punished or called one man to an account for it. The utmost he has done, you see, is, to recall one man only on account of it; for Major Osborne was not the only person

Connivance of Mr. Hastings.

5 June 1794. involved in these charges. He has nominated these people, and he has never called one of them to an account. And then shall I not call him captain general? shall not your Lordships call him captain general? and shall any man in the kingdom call him by any other name? We see all the executive, civil and criminal justice of the country seized on by him. We see the trade and all the duties seized upon by [his creatures].* We see them destroying the markets, while they were making others in other places. We see them using the rapine of war in time of peace. We see the country declared to be ruined and depopulated by these people, whom we are to consider not as any other than as men who, in their evidence, do convict the country they have ruined as rebellious.

His admission of guilt.

Who has brought out all these complaints, the existence of which was never denied, and for which no redress was ever obtained and no punishment ever given? Why, it is Mr. Hastings himself has brought that before you! It is in papers he has transmitted; which God has suffered, who inflicts blindness upon great criminals in order that they should suffer what they deserve. He has brought forward this scene, which we are stated maliciously to represent, to the disgrace of our country. If there is a single act of his that is misrepresented, if all that has been said of his ravage of the country, of his seizing upon the revenues—if every one of that long catalogue of grievances is false, Warren Hastings is the person that is to answer to it. If they are false, he is to answer to that false and calumniating accusation; if they are true, he is answerable for appointing these persons and never calling a man to an account for it. But he has shown that he is of opinion it is true. And now hand me the character that Mr. Hastings gives of all the British officers.

His charges against British officers.

In page 657 of the printed Minutes, your Lordships will see, in an extract from the Appendix to the Benares Narrative, a comment by Mr. Hastings on the treaty of Chunar. Now mark what the man himself says of the whole military service:—

"Notwithstanding the great benefit which the Company would have derived from such an augmentation of their military force as these troops constituted, ready to act on any emergency, prepared and disciplined without any charge on the Company, as the institution professed, until their actual services should be required, I have observed

* Revised copy.

some evils growing out of the system which, in my opinion, more than counterbalanced those advantages, had they been realized in their fullest effect. The remote stations of those troops, placing the commanding officers beyond the notice and control of the Board, afforded too much opportunity and temptation for unwarrantable emoluments, and excited the contagion of peculation and rapacity throughout the whole army. A most incontrovertible proof of the prevalence of this spirit has been seen in the court-martial upon Captain Erskine, where the court, composed of officers of rank and respectable characters, unanimously and honourably, most honourably, acquitted him upon an acknowledged fact, which, in times of stricter discipline, would have been deemed a crime deserving the severest punishment." 5 June 1794.

Another extract from the same comment of Mr. Hastings with respect to the removal of the Company's servants, civil and military, from the court and service of the Wazir:—

His removal of the Company's servants from the establishment of the Wazir.

"I was actuated solely by motives of justice to him and a regard to the honour of our national character. In removing these gentlemen, I diminish my own influence as well as that of my colleagues, by narrowing the line of patronage; and I expose myself to obloquy and resentment from those who are immediately affected by the arrangement, and the long train of their friends and powerful patrons. But their numbers, their influence, and the enormous amount of their salaries, pensions and emoluments, were an intolerable burthen on the revenues and authority of the Vizier, and exposed us to the envy and resentment of the whole country, by excluding the native servants and adherents of the Vizier from the reward of their services and attachments."

Demoralization of the army.

My Lords, hear what he says of the whole military service. Hear the documents and the authority upon which he supports his opinion, that the contagion of peculation had tainted all these frontier stations, which are much the largest part of the Company's army there. He states that the contagion of peculation had tainted the whole army everywhere. So that there was, according to him, an universal taint of peculation through that whole army. Peculation is not a military vice. Insubordination, want of attention to duty, want of order, want of obedience and regularity,—these are military vices; but who ever heard before of peculation being a military vice? No; it was because this was not done by them in the character of military men. They were farmers of revenues, masters of markets, of gunjes, and other inventions that were invented to the ruin of the country; and that was that peculation which tainted the army.

I declare, when I first read that in the infancy of this inquiry, it struck me as an odd thing that peculation should be stated as a military vice. With this peculation, however, such as it was, Warren Hastings charges the whole British army with being corrupted. But remark another thing still more

5 June 1794. serious than that—that it had so tainted them that it affected their judicial character; for, if officers misbehave themselves, a court-martial is generally speaking the most just and the most honourable tribunal. Perhaps there is no tribunal that really stands more untainted in this country than a court-martial. I think it stands as fair with the army and the officers, as fair with the country, as any tribunal in this country—and all the tribunals stand fair. But just to go to the subject of their peculation:—this unnatural venom, that has nothing to do with the vices of a military character any more than with the virtues—this venom has got into them in such a degree that they, against the clearest evidence, acquit—honourably acquit—most honourably acquit—a person charged with these very vices!

Who says this?—Do I say it? Warren Hastings says it! The papers he transmits have said it. He gives you his vouchers, his documents. He gives you that evidence, and he draws the conclusion. He is the criminal accuser of the British army. There he sits in that box who has accused the whole British army in India. He has declared them tainted with peculation from head to foot—tainted with the wickedest perjuries, to bear one another out in these peculations. It is an unnatural state of things. There is not one military man on these stations of whom Mr. Hastings' does not give this abominable flagitious character. What a tremendous scene he exposes, if what he says is true: and yet every one of them have joined to give him the best of characters.

Responsibility of Mr. Hastings for the general corruption.

Are there then no signs of this captain generalship? Are there no signs that this man is a captain general of iniquity, under whom all the vices of India are paid, disciplined and supported? I not only charge him himself with being guilty of a thousand crimes, but that there is not a soldier or a civil servant in India who does a wrong thing that it is not owing to his example, connivance and protection. Everything that goes to criminate them goes directly against the prisoner, who has put them in that situation, who has suffered no rule or government of the country to restrain them, who has never called a man to an account for these things which he has thought proper to lay before his country, in the most solemn manner and upon the most solemn occasion.

I verily believe in my conscience it is not true, in the

excess, in the generality and extravagance which he makes in his charge. That it is true in a great measure we cannot resist and deny; and we charge him with being the author of it. And if there is anything bearing beyond the truth, he is the man that is to answer for it. O! my Lords, he thinks better, however, of the civil servants than some part of the service. That is incorrupt: the civil service is incorruptible. Read here his account of the civil service, with respect to the removal of the Company's servants, civil and military:— "I was solely actuated by motives of justice to him and a regard to the honour of our national character." He was of opinion that the civil servants of the Company in that place destroyed the national character, and that that must be restored by removing these people. Says he, "I diminished my patronage." How came they there? Through our patronage. We sent them there to suck the blood the military had spared. Who sent the civil servants to do ten times the mischief, as they were capable, with greater power over the revenues, that even the military ravagers could do? Says he, "If I recall them from thence, I lessen my patronage." Who enabled you to be a patron? What laws of your country enabled you to force upon the Wazir the civil servants of the Company? What treaty authorised you to do it? What system, except your own wicked system, authorised you to do it? "And I expose myself to obloquy and resentment from those who are immediately affected by the arrangement, and the long train of their friends and powerful patrons."

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Case of the civil service of the Wazir.

My Lords, it is the constant burthen of his song that he cannot do his duty; that he is fettered in everything that he does; that he fears a thousand mischiefs to happen to him;— what, by carefulness, by economy, by frugality, by obedience to the laws of his country? No; "I am afraid I shall forfeit the [favour of] powerful patrons of those people in England, namely, the Lords and Commons of England, if I do justice to the suffering people of this country." Undoubtedly, there are powerful people in the House of Commons that may be supposed to be influenced by patronage; but your Lordships absolutely represent that higher and more powerful part of the country more directly than we do, whose glory it is—though we have some of the first blood in England in the veins of the House of Commons. We do represent in our body, by the knights of shires, the landed interest. We do by cities represent the trading interest. By the boroughs, and sometimes by the

Alleged corruption of members of the Houses of Parliament.

5 June 1794. cottages, it is our glory that we represent the people of England. It is the great glory of the House of Commons. But neither blood, nor power, nor anything, is represented so much in the House of Commons as the protection of the lower order of the people, who compose the body of the people whose names we represent, and whom it is our glory to adhere to. But the dignities of the country—the great and powerful—are represented eminently by your Lordships. And as we would keep the lowest of the people from the dishonour and contagion of peculation and corruption, and, above all, from exercising that vice which among commoners is unnatural as well as abominable—tyranny and oppression, so we trust your Lordships will clear yourselves, and the higher ranks and more powerful people, from giving the smallest countenance in any degree to the system which we have done our duty in bringing before you. We can do no more.

My Lords, there is the account of the civil service. Think of their numbers, think of their influence, and the enormous amount of their salaries, pensions and emoluments. They were an intolerable burthen on the revenues and authority of the Wazir, and exposed us to the envy and resentment of the whole country, by excluding the native servants and adherents of the Wazir from the reward of their services and and attachment. My Lords, here is the civil service given to you! They usurp the country; they destroy the revenues; they overload the prince; and they exclude all the nobility and eminent persons of the country from the just reward of their service.

Sole responsibility of Mr. Hastings for the appointment of the civil servants.

I saw here a little while ago Mr. Francis; did he send these people into that country? Did General Clavering send these people into that country? Did Colonel Monson, whom he charges with this system, send these people into that country? No; they were every one of them sent by himself; for, if any one sent anybody else for a time, he was soon recalled. So that, as to the peculation which he attributes and the character he gives to the civil service, there you see their accuser: there you see their defender. All that I can say of Mr. Francis, General Clavering and Colonel Monson, is, that they did all they could to resist the formation of these new brigades. Mr. Hastings never punished any servant, military or civil. Therefore, after he has defamed both services, the civil servants are as prodigal of their praise of him as the military.

What is the cause of that prodigality? You can account

for it, and can account for it but in one way. I defy the ingenuity of man to show that Mr. Hastings is not the defamer of the service; that the honour of Great Britain, if it is lost, is not lost under his patronage. He pretended to remove them all by the treaty of Chunar. He never executed that treaty. He proposed to take away the temporary brigade, but he laid it on again. He altered nothing. He never attempted to give a remedy that he did not increase the evil ten times worse afterwards. Your Lordships will see this all fully in your Minutes. There may be some small matters which we have not produced upon your Minutes, but we have it under our hand. The putting on again—I doubt whether that is; but it is no matter, I come upon this;—he was the author of all the grievances civil, of all the grievances military. He is the accuser of them all. Show me one instance in which he has punished any one man for any one of these offences. The only instance in which he has attempted to punish any man was that man who dared to assert the authority of the court of Directors, and to claim an office under them. 5 June 1794.

When I consider the only crime which he has punished, when I consider the numberless crimes of which he has accused men, when I consider that he has called none of them to account, there I leave him—the captain general of all the [iniquity] in the civil and military service—caressing him, and at the same time knowing he is on record the bitterest accuser they have in the world.

I will now read to you the protest of General Clavering against the military brigade:— Protest of General Clavering.

"Taking the army from the Nabob is an infringement of the rights of an independent prince, leaving only the name and title of it without the power. It is taking his subjects from him, against every law of nature and of nations."

There is a minute of Mr. Francis, in pages 766 and 767 of the printed Evidence.

"Mr. Francis,—By the foregoing letter from Mr. Middleton, it appears that he has taken the government of the Nabob's dominions directly upon himself. I was not a party to the resolutions which preceded that measure, and will not be answerable for the consequences of it."

My Lords, I was in doubt myself whether this was before your Lordships, on your Minutes. You will excuse me if, sometimes, in having a vast deal of this matter before us in our inquiries—I suppose tenfold matter more than we have been able to produce before your Lordships; without blaming the thing in the least; we only state it—I may

5 JUNE 1794. sometimes suspect, when I have stated something which I know to be upon the records, that it may not be upon your Lordships' Minutes. But I find this paper to which I allude is on your Minutes, page 543. It was introduced by the Managers, to prove a further representation by the Nawab with respect to the expenses of the gentlemen at his court, after the above removal :—

Remonstrance of the Wazir.

"Extract of a letter from the Vizier to Mr. Macpherson, from Book 115 already delivered in, received the 21st April 1775 :—

"With respect to the expenses of the gentlemen who are here, I have before written in a covered manner. I now write plainly, that I have no ability to give money to the gentlemen, because I am indebted many lacks of rupees to the bankers, for the payment of the Company's debt. At the time of Mr. Hastings' departure, I represented to him that I had no resources for the expenses of the gentlemen. Mr. Hastings, having ascertained my distressed situation, told me that after his arrival in Calcutta he would consult with the Council, and remove from hence the expenses of the gentlemen, and recall every person except the gentlemen in office here. At this time, that all the concerns are upon you, and you have in every point given ease to my mind according to Mr. Hastings' agreement, I hope that the expenses of the gentlemen may be removed from me, and that you may recall every person residing here, beyond the gentlemen in office. Although Major Palmer does not at this time demand anything for the gentlemen, and I have no ability to give them anything, yet the custom of the English gentlemen is, when they remain here they will in the end ask for something. This is best, that they should be recalled."

Appointment of Major Palmer.

I think so too, and your Lordships will think so too; but Mr. Hastings, who thought so in September 1781, and engaged to do it, was so afraid of their powerful friends and patrons here, which he expressed, that he left India and left the load of all that obloquy upon his successors. He left a Major Palmer there in the place of a Resident; a Resident of his own. Your Lordships see Major Palmer was no Resident of the Company's; no representative, that is, no servant of theirs. Major Palmer we know received a salary of about 23,000*l.* a year, which he declared to be less than his expenses there; by which we may easily judge of [the enormous salaries of]* those who make their fortunes. And that Major Palmer was at the head of that body for tormenting the Nawab, and carrying on this custom of English gentlemen,—"Major Palmer does not ask anything," he says, "at present,"—whom Mr. Hastings left there as his representative of peculation, his representative of tyranny. He was the second agent that he had, who was to control all

* Revised copy.

the power, ostensible and unostensible, that they had there. Says he, "It is a custom among them." Money they must have: this is the whole secret. 5 June 1794.

Recapitulation.

Now, what I have done to-day is this:—I have shown you, in such a country as Oude, the greatest dependence upon the British empire. I have stated how Mr. Hastings usurped all the power of it; how he usurped the power of the Nawab, and reduced him to a cypher; how he reduced the minister to be a mere creature of his; how he reduced the servants of the Company to be dependent upon his will, and would not suffer them to be independent, but considered their independent spirit as a proof of their corruption; how he suffered the army to become the instrument of robbery and oppression; how he suffered one of that army, metamorphosed into a farmer-general of the country, to waste and destroy that country and embezzle the revenues. We have shown you the whole, secret, clandestine and fraudulent, system with which this system of violence was carried on. We have shown you that he himself was the person who brought before you the abandoned behaviour of the officers, the abandoned behaviour of the civil service, the general rapacity of both services, his fear of correcting any of them for fear of offending your Lordships, and for fear of offending the Commons—whom he has offended by a direct contrary conduct, and offended without any possibility of a pardon from them. We have shown you the state of that country. We have shown you the government of that country. We have shown you the government destroyed. We have shown you the revenue destroyed, the commerce of the country and the agriculture of the country destroyed and ruined, and Mr. Hastings winding up the whole—that not only the troops employed in that place, but in every place, were corrupted by their example, and the very justice that holds together the elements of military discipline corrupted with it.

This we have shown you to-day; and I do not believe your Lordships will think that we have been weakly or idly destroying your time or ours, or that we have strained the text beyond our measure, when we show you such a horrible scene, arising from such a horrible production of horrible circumstances. You will take every part of this pretty much in the order and manner in which it has been mentioned:—the government, the authority of the country—of the native authorities; the manner in which the revenues of the country

5 June 1794. were administered by military farmers-general; the oppression of the country and the complaints which the native government has made, uncontradicted, against all the military servants, and Mr. Hastings' general conclusion upon the character of them all; and the total want of punishment and calling to account of any human creature, for such monstrous and abominable things as we have stated.

This I leave to your Lordships. For the present, my strength can go no further. The next day I shall bring before you the manner in which he has treated the moveable and immoveable property of that country, by which he has left nothing unshaken and undestroyed; and, lastly, we shall show you the general effect of his whole conduct in the utter destruction of that devoted country.

CONTINUATION OF THE SPEECH OF THE RT. HON. EDMUND BURKE, MANAGER FOR THE HOUSE OF COMMONS, IN GENERAL REPLY ON THE SEVERAL CHARGES; 7 JUNE, 1794.

NOW, my Lords, we resume our business. Mr. Hastings, perfectly sensible of all, meets, at his own desire and request, and draws down his poor victim, the Nawab, whom he ordered to meet him at Chunar. By this time your Lordships are satisfied that this poor unfortunate man had no will of his own; that, if he had written a letter for Mr. Hastings to come, it was a letter Mr. Hastings dictated to him; and therefore his being there, and everything he did when he was there, was Mr. Hastings' act; as we have laid a ground of direct proof before you that all his acts were, and must be, so construed. 7 JUNE 1794.

We are now going to show your Lordships the oppression of Mr. Hastings, through his two miserable instruments—the one, the passive instrument, the Nawab; the other, the active instrument, Mr. Middleton—in his subsequent plans for the entire destruction of that country. In page 513 of the printed Minutes, you have Mr. Middleton's representation of his promptitude to represent everything agreeably to Mr. Hastings' wishes:—

"My dear Sir,—I have this day answered your public letter in the form you seemed to expect. I hope there is nothing in it that may to you appear too pointed. If you wish the matter to be otherwise understood than I have taken up and stated it, I need not say I shall be ready to conform to whatever you may prescribe, and to take upon myself any share of the blame of the hitherto non-performance of the stipulations made on behalf of the Nabob; though I do assure you I myself represented to his Excellency and the ministers, conceiving it to be your desire, that the apparent assumption of the reins of his government (for in that light he undoubtedly considered it at the first view), as specified in the agreement executed by him, was not meant to be fully and literally enforced, but that it was necessary you should have something to show on your side, as the Company were deprived of a benefit without a requital; and upon the faith of this assurance alone, I believe I may safely affirm, his Excellency's objections to signing the treaty were given up. If I have understood the matter wrong or mis- Letter of Mr. Middleton.

7 June 1794. conceived your design, I am truly sorry for it. However, it is not too late to correct the error; and I am ready to undertake and, God willing, to carry through whatever you may, on receipt of my public letter, tell me is your final resolve.

"If you determine, at all events, that the measures of reducing the Nabob's army, &c. shall be immediately undertaken, I shall take it as a particular favour if you will indulge me with a line at Fyzabad, that I may make the necessary previous arrangement with respect to the disposal of my family, which I would not wish to retain here in the event either of a rupture with the Nabob, or the necessity of employing our forces on the reduction of his aumils and troops. This done, I can begin the work in three days after my return from Fyzabad."

His submission to the dictation of Mr. Hastings.

My Lords, there is another letter, in which Mr. Middleton tells him that he will, in short, represent everything directly in the manner that he seems to wish it. This letter, I believe, is clear upon the subject; but there is another much more clear, upon your Lordships' Minutes, much more distinct and much more pointed, of his resolving to make such representations of the matter as he pleases. Now, a man who is master of the representations that shall be made to him is answerable for the conduct afterwards; because, as every conduct is to be justified by the state of facts to be represented, if a man can make to himself the state of facts, he makes to himself the judgment of others upon it. Therefore, this must be added to the rest. And I wish your Lordships to carry generally in your minds, that there is not one single syllable of representation made by any of these parties—except where truth may happen to break out in spite of all the means of concealment—which is to be considered as other than the representation of Mr. Hastings himself, in justification of the conduct of Mr. Hastings himself.

Treaty of Chunar.

This letter which I have read was written on account of the transaction I am now going to state, called the treaty of Chunar. Having brought this miserable victim there, he forced him to sign a paper called a treaty; but which treaty—such fraud is in everything that is done—Mr. Middleton, who is the chief agent and mover in it, has declared, in the paper that I have now had the honour of reading to your Lordships, he was persuaded to sign by the assurance given to him that it never was to be executed. So that your Lordships may see—first, the force that was put upon him with regard to that treaty; and then, that he never would have submitted to that force, if he had not been assured that that treaty should not be executed.

The first thing that I go upon is this;—this treaty has

for its object two modes of relieving the Nawab from his distresses, which we have stated, and which Mr. Hastings has fully and clearly admitted, and not only admitted, but himself proved in the strongest manner to your Lordships. The first is, the taking away that wicked rabble, the British troops, which Mr. Hastings has represented to have dealt so destructively in the Nawab's affairs, and to remove that part of them in particular which was called the new brigade. 7 June 1794.

Another remedial part connected with this, as it belongs to the British, was with regard to the British pensioners. It is in proof before your Lordships—and I should be very sorry at present to touch upon any point, nor ever shall, but in the way of explanation, that is not directly and immediately in proof before your Lordships—I say that it appears before your Lordships that Mr. Hastings agreed to recall that body of British pensioners, whose conduct there he describes, in such strong terms, as so ruinous to the Wazir and all his affairs. Mr. Hastings engaged to recall that body of pensioners. He never did. We are to refer your Lordships to the proof that the pensioners, so odious, so distressing, to the Nawab, so ruinous to his affairs and so disgraceful to our Government, Mr. Hastings did not only [not recall, but] afterwards, upon the very day, as Mr. Middleton himself tells you—upon that very day he recommended the pensioners to him, to remain upon that very establishment, whom by the solemn treaty of his own making and his own dictating he had agreed to take away from the Nawab. That is in page 938 of the printed Minutes.

Omission of Mr. Hastings to fulfil the conditions.

Mr. Hastings, your Lordships remember, had come from Benares frustrated in his intentions to get 500,000*l.* for the Company. Seeing that he had committed all this ravage without the least possible benefit to the Company, in any lucrative view whatever, that the British soldiers had divided the only spoil, that there remained nothing but disgrace for their part, he was afraid to return without having something pecuniary to show to the Company; and accordingly he turned in his head a vast variety of stratagems for that purpose.

His failure at Benares.

The first thing that appears in the treaty of Chunar was a power given to the Nawab to resume all the jagirs not guaranteed by the Company, and to give pensions to and those persons who should be removed from their jagirs.

7 June 1794.

The first thing which would naturally occur to a man who was going to raise a revenue through the intervention of the prince of the country was, to recommend to that prince a better economy in his affairs, and some equal, rational, assessment upon his subjects, in order to furnish the amount of the demand. I need not tell your Lordships, trained and formed as your minds are to the rules and orders of good government, that there is no way by which any prince can justly assess his subjects but by assessing them all in proportion; and that any prince who should make such a body, we will suppose, as the House of Lords in this kingdom—which comes near the case I am going to state—who should make them [separately] the subject of assessment, would do a thing contrary to all the principles of regular and proper taxation in any country in the universe. Some men may, possibly, by locality or privileges, be excepted from certain taxes, but no taxation ever was just that was thrown upon some particular class of people only; and if that class happens to be small and the demand great, the injustice that is done to that class is proportioned exactly to the greatness of the exaction and the smalness of the class of persons who are the objects of it. These are clear, irrefragable and eternal, principles.

Principles of taxation.

But if, instead of exacting a part—instead of rating a part—they go further, and attempt to shake the body of the property itself, to confiscate, perhaps, the whole estates at once, by way of a government resource, without the charge or pretence of a crime in any way whatever—a body of property, perhaps, not much less than is possessed by the whole Peers of Great Britain—I say, that a more cruel, wicked and abandoned, act, with regard to the pretended resource, never was undertaken in the world. Yet this is the thing that Mr. Hastings intended to do, and actually did accomplish.

Permission to resume the jagirs to the Nawab under the treaty.

My Lords, at the treaty of Chunar, as it is called, Mr. Hastings—for he always feels his way to it—first says, that the Nawab shall be permitted to do it if he pleases. He does no more. He does not assume the government. He does not compel the Nawab to do anything. He does not force this abandoned and wicked confiscation of the whole nobility of a great country. All that he says is this—that the Nawab may be permitted to resume them. Why, if the act had been legal, proper and justifiable, he did not want our permission: he was a sovereign in his own dominions.

But Mr. Hastings recollected that there were some of these jagirs, as they are called, and on which I shall say a very few words to your Lordships, that were guaranteed by the Company. The jagirs of his own house, of his mother and grandmother, were guaranteed by us. I must inform your Lordships that, upon some of our other exactions at a prior time, the Nawab did endeavour to levy a forced loan upon a body of jagirdars of his country. This forced loan was made and submitted to by those people, upon a direct assurance [of their rights in their jagirs]* guaranteed by the British Resident, not only to the Begums, but to the whole family and to all the objects of the tax. 7 June 1794.

Nobility of the country.

I believe I had better have stated—but I shall presently —how that matter stands. The jagirdars of that country are the body of the principal Mohammedan nobility. The great nobility of that country are divided into two parts. One part are the zamindars, who are the ancient hereditary nobility of the country; and these are mostly of the Gentu kind, the ancient proprietors of the land. The other are the Mohammedan nobility, whose whole interest in the land [consists in the jagirs];* for very few of them indeed are zamindars anywhere. In some of the provinces none of them are zamindars; the whole of them are jagirdars.

Nature of jagirs.

A jagir we have heard much discussion about. It is in proof before your Lordships that the jagirs are of two sorts; that a jagir signifies exactly what the word fee does in the English language, or *feodum* in the barbarous Latin of the feodists; that it is a word which signifies a salary or a maintenance, either one or the other, as the English word fee, which comes from the word feod and *feodum*, signifies a salary—some means by which people are to have their maintenance. This fee, like other fees and like other feods, was given in land as a maintenance; some with the condition of service, some without the condition of service, some as annexed to an office, some granted as the support of a dignity; none granted, except those that were immediately annexed to a lease, for a less term than life.

We have shown your Lordships, and by Mr. Hastings' example, that some of them are a fee granted actually in perpetuity; and many of them are so. We are to tell your Lordships, that by the custom of the empire they are almost grown by use, just as in their progress the feods in Europe

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* Revised copy.

7 JUNE 1794. are grown by use, into something which is, at least virtually, an inheritance. This is the state of the jagirs and jagirdars. Among these jagirdars we find, what your Lordships would expect to find, a great provision for all the nobility of that illustrious family of which, by father and mother, notwithstanding the slander of the prisoner against his benefactor, Suja-ud-Dowla was undoubtedly—and Asoff-ud-Dowla afterwards—[the head]. They were the first and most distinguished nobility of the Mohammedan empire. Accordingly, his uncles, all his near relations, his mother, grandmother, all possessed jagirs; some of very old grants and of long standing, and most of them not given by the Nawab.

Peril of confiscation.

I take some pains, my Lords, in this business, because I hope your Lordships will have a feeling against all ideas of confiscation for the purpose of revenue. Believe me, if there is any one thing whatever which will destroy and root out the present order of things in Europe—as we see in another part—it is beginning by confiscating, for the purposes of the state, grants to classes of men, let them hold by what means or be supposed susceptible of what abuses soever. I will venture to say that Jacobinism never has or can strike a more deadly blow to property, rank and dignity, than if your Lordships were to acquit this man of this confiscation for the purpose of raising a revenue. You would strike against your Lordships' own dignity, and the very being of the society in which we live. The pages concerning the state of the jagirs and jagirdars are 482 and 483 of your Lordships' printed Minutes, and the subsequent pages as far as 485. There your Lordships will find what the jagirdars were, and what the amount of their estates.

Value of jagirs confiscated under Mr. Hastings' authority.

My Lords, the jagirs of which Mr. Hastings authorised the confiscation, which he calls a resumption of the whole of the jagirs, appear from Mr. Purling's account, when first the forced loan was levied upon them under his residentship, to amount to 285,000*l.* sterling per annum; which 285,000*l.*, if it is rated and valued according as the rate of provisions and other necessaries of life are in that country, may amount in English, as near as may be, to about 600,000*l.* a year. I am within compass, when I state that everybody conversant in India will say it is equivalent to 600,000*l.* a year in England: and what a blow such a confiscation as this would make in the fortunes of all the Peers in Great Britain your Lordships will judge. I like to see your estates as great as they are. I wish they were greater than they are. But I wish, what-

ever they are, that they should be perpetual; for to dignity and property in this country, *esto perpetua* shall be my prayer of this day and the last prayer of my life. Therefore the Commons of Great Britain, those guardians of property, who will not suffer the Crown, the princes they love, the government which they adore, to levy one shilling upon the subject in any other way than the law and statutes of this kingdom permit, will not suffer, nor can bear the idea of choosing out a class of people for such an occasion, or even permit the Nawab of Oude to do it. For when I prove a governor like this has substituted a power of his own instead of the legal government of the country, as I have proved, if he found the Nawab of Oude going to do an act which would shake the property of all the nobility of the country, he ought to put down his hand and say, "You shall not make my name your sanction, at least, for such an atrocious and abominable act as such a confiscation as this." 7 June 1794.

Mr. Hastings not only gives, with an urbanity for which he is so much praised, his consent to do it, but then, says he, "there must be pensions secured for all the persons who shall lose by this and who are secured by our guarantee." They are secured by our guarantee; which is a point I have rather anticipated a little, previous to giving the information that might be proper to give your Lordships;—Mr. Hastings by his guarantee had secured the Nawab's own relations and family.

Guarantees previously given to the relations of the Nawab.

One would imagine, if some were to be confiscated at his pleasure who were without any security at all, that others who were guaranteed by the Company, such as the Begums of Oude and several of the principal nobility of the Nawab's family, would be secure. "Why," says he, "there shall be pensions given." For, at this time, he had not got the length of being able to violate without any shame or remorse all the guarantees of the Company. Says he, "there shall be pensions given." If pensions are to be given to the value of the estate, I ask, what has this violent act done? You shake the property, and, instead of suffering a man to gather from his own lands his own profits, you turn him into a pensioner upon the treasury. I can conceive that such a thing will render these persons miserable dependants, instead of being independent nobility; but I cannot conceive what purpose can be answered, in a financial light, by paying that in pension which you are to receive in revenue. In the first place, that strikes me as a thing that is directly contrary to financial economy; for when you stipulate to pay out of the

Pretended compensation to the jagirdars.

7 June 1794. treasury a certain pension, and take upon you the estate, you do that thing in which government has always failed:—you charge establishments with a sum, certain, fixed, definite and limited, and take your chance of recovering from the country, and of all the accidents that may happen to a falling revenue. Therefore it could never be justified as a measure of economy: it must be done merely for the sake of shaking and destroying property.

But it will appear to be gross violence ushered in by gross fraud, and that no pensions were ever intended to be paid to them; as you may guess, when such a strange metamorphosis was made as turning a great landed interest into a pensionary interest. What would be the event of it your Lordships know. As it could answer no [other] purpose, so it could be intended for no other purpose than of getting this by an entire fraud. At the treaty of Chunar thus these things stood:—the jagirs were composed in this manner;—first, of the 285,000*l.* a year, which was to be confiscated in this manner. The old grants of Suja-ud-Dowla altogether amounted to near two-thirds of the whole value of these jagirs, as you will find in the paper to which we refer you—these old grants of Suja-ud-Dowla, which this Nawab was authorised to resume, and of which he was never the grantor.

[*Mr. Burke read the list of the jagirs.*]

Now, my Lords, you see that all, except 25,782*l.* a year, is either jagirs for the Nawab's own immediate family, given by his father and settled by his father upon his mother, and by his father's father upon his grandmother, [or jagirs given to] Salar Jung his uncle, and all the considerable nobility, to the extent of that gross sum of 285,000*l.* Mr. Hastings confesses that the Nawab was reluctant, to a certain degree, to make the confiscation in the manner [proposed]. Why? Because, says he, the orderlies,—namely, persons subservient to his infamous debaucheries—were the persons whom he wanted to spare. Now I am to show you that this man, whatever faults he may have in his private morals, with which we have nothing at all to do—that Mr. Hastings, who slanders him in that manner, has slandered him throughout.

The Nawab's objection to the measure.

Comparison of the alleged plans of Mr. Hastings and Asoff-ud-Dowla.

We will take, first, his own account of the matter. Says he,—

"He would have confiscated the rest and saved his orderlies, but I, finding where his partiality was, compelled him to sacrifice the whole; for otherwise he would have sacrificed the good to save the bad."

"Whereas," says Mr. Hastings, "what was my principle?

I would, to punish and exclude the bad, have sacrificed the good." Now compare the account he gives of the proceedings of Asoff-ud-Dowla, and his own:—"Asoff-ud-Dowla, to save some unworthy persons who had jagirs, would have confiscated all the good, if left to his discretion; whereas I would take a contrary course, and, in order to make him exclude the bad, would have punished the innocent and virtuous, the deserving, the great, the powerful, and those who had all the ties of nature upon them, in order to exclude those unnatural predilections which he had. That is my plan." Now, supposing these two villainous plans, neither of which your Lordships can bear to hear the sound of, to stand equal in point of morality, let us see how they stand in point of calculation. The unexceptionable part of the 285,000*l.* amounted to 260,000*l.* a year; whereas, supposing every part of the new grants had been made to the very unworthy people, it amounted to but 25,000*l.* a year. Therefore, by his own account, given to you and to the Company, upon this occasion, he has confiscated 260,000*l.* a year, the property of innocent, if not of meritorious, individuals, in order to punish by confiscation those who had 25,000*l.* a year only. This is the account he gives you himself of his honour, his justice and his policy, in these proceedings. 7 June 1794.

Mr. Hastings' slander of the Nawab.

But, my Lords, he shall not escape so. It is in your Minutes, that, so far was the Nawab from wishing to save them, that, at the time of the forced loan that I spoke of and the resumption proposed, he was perfectly willing to give up every one of those; and at the same time only desired his mother, his uncles, his relations, and the prime of the Mohammedan nobility of that country, to be spared. Is it not enough that this poor Nawab—this wretched man—is made a slave to this man, that he is made a shame and scandal to his race, his country, his family, but he must be by Mr. Hastings cruelly aspersed, and faults and crimes attributed to him that do not belong to him? I know nothing of his private character [and conduct]. Mr. Hastings, who deals in scandalous anecdotes, knows them. I know nothing of the matter. I take it upon the face of his own assertion; and I say, Mr. Purling has proved that the Nawab would have consented to an arbitrary taxation, which was all he proposed at that time; he would have given up every person, except those honourable persons I have been stating.

Case of the orderlies.

In page 1997 of your Lordships' Minutes, they them-

7 June 1794. selves call Mr. Wombwell, to prove to your Lordships the names of the orderlies, that is, those infamous persons with whom Mr. Hastings has aspersed the Nawab's name, in order to find a ground to destroy his family. They are proved—the whole of them—to be but six in number. The list of the others, your Lordships see, fills up pages. But, when he himself brings his own evidence to slander the Nawab, and to give an account of his wishing to save them by the total ruin of his nobility, and when he calls his own witness upon that occasion, he proves that there were but six persons; and, when we come to examine these six, we find that their jagirs were perfectly contemptible. What I have stated about their allowance to be taxed—which is in page 483 of your Lordships' Minutes—proves the small number of those [orderlies] whose jagirs Mr. Hastings has confiscated, in the destruction of which he has involved the greater number, and the most meritorious; that the Nawab never would, and never did, propose any exemption for them, at any time whatever; that it was a slander and a calumny on that unhappy man, in order to defend the violent acts of the prisoner; as slander and calumny is a proper way to defend violence, outrage and wrongs.

The Nawab's continued opposition to the measure.

This is the first stage of Mr. Hastings' confiscation of the estates of these unhappy people. When it came to be put in execution, Mr. Middleton found the Nawab reluctant in the greatest degree to sacrifice his family and all his nobility. This touched him in every way in which shame and sympathy can affect a man. He found him in the most strong degree of reluctance to the measure. He falls at the feet of Mr. Middleton: he says,—"I signed the treaty of Chunar upon an assurance that it was never meant to be put in force." Mr. Middleton sends his family out of the country. He fears a revolt of the whole country for this tyrannical act, and refers back to Mr. Hastings, who insists upon its being executed in the utmost extent in which it can be executed. The Nawab remonstrated in the strongest manner. He begged, he prayed, he dissembled; he delayed one day, he pretended to be willing to submit in another; he hung back; just as the violence of Mr. Hastings or his own natural feelings or principles of justice dragged him one way or dragged him another. But Mr. Middleton, trembling and under the awe of a dreadful responsibility, which he was made to assume upon that occasion,—what did Mr. Middleton do? It would seem little to say he usurped his govern-

Conduct of Mr. Middleton.

ment. He usurped it openly and avowedly—usurped his government. He declared that he himself would issue his purwanas, as governor of the country, for executing this abominable confiscation; that he would give his own purwanas for the execution of it. He assumed to himself the government of the country; and Mr. Hastings had armed him with a strong military force for that purpose. He declared he would order them to march to support him. He at last got this reluctant, struggling, Nawab [to consent], in the manner we have described, and as we shall read to your Lordships, that you may hear these men with their own mouths describing their own acts; and that your Lordships may then judge whether the highest tone and language of crimination comes up to their own description of their own proceedings. 7 June 1794.

Letter from Mr. Middleton to Mr. Hastings, Lucknow, 28th December 1781. [Printed Minutes, page 809. This is the second paragraph]:— His letter to Mr. Hastings.

"If your new demand is to be insisted upon, which your letter seems to portend, I must beg your precise orders upon it; as, from the difficulties I have within these few days experienced in carrying the points you had enjoined with the Nabob, I have the best grounds for believing that he would consider it a direct breach of the late agreement, and totally reject the proposal as such. And I must own to you that, in his present fermented state of mind, I could expect nothing less than despair and a declared rupture.

"He has by no means yet been able to furnish me with means of paying off the arrears due to the temporary brigade for the stipulated term of its continuance in his service. The funds necessary for paying off and discharging his own military establishment under British officers and his pension list have been raised, on the private credit of Mr. Johnson and myself, from the shroffs of this place, to whom we are at this moment pledged for many lacks of rupees; and without such aid, which I freely and at all hazards yielded, because I conceived it was your anxious desire to relieve the Nabob as soon as possible of this heavy burden, the establishment must have been at his charge at this time, and probably for months to come, while his resources were strained to the utmost to furnish jaidads for its maintenance to this period. I therefore hesitate not to declare it utterly impossible for him, under any circumstances whatever, to provide funds for the payment of the troops you now propose to send him.

"The wresting Furruckabad, Kyraguc, and Fyzoola Khan's country from his government, (for in that light, my dear Sir, I can faithfully assure you he views the measures adopted in respect to those countries), together with the resumption of all the jaghires, so much against his inclination, have already brought the Nabob to a persuasion that nothing less than his destruction, or the annihilation of every shadow of his power, is meant; and all my labours to convince him to the contrary have proved abortive. A settled melancholy has seized him, and his health is reduced beyond conception; and I do most firmly believe that the march of four regiments of sepoys towards Lucknow, under what-

7 June 1794. ever circumstances it might be represented, would be considered by him as a force ultimately to be used in securing his person. In short, my dear Sir, it is a matter of such immediate moment, and involving apparently such very serious and important consequences, that I have not only taken upon me to suspend the communication of it to the Nabob until I should be honoured with your further commands, but have also ventured to write the enclosed letter to Colonel Morgan;—liberties which I confidently trust you will excuse, when you consider that I can be actuated by no other motive than a zeal for the public service; and that if, after all, you determine that the measure shall be insisted on, it will be only the loss of six, or at most eight, days in proposing it. But in the last event, I earnestly entreat your orders may be explicit and positive, that I may clearly know what lengths you would wish me to proceed in carrying them into execution. I again declare it as my firm belief—and assure yourself, my dear Mr. Hastings, I am not influenced in this declaration by any considerations but my public duty and my personal attachment to you—that the enforcing the measure you have proposed would be productive of an open rupture between us and the Nabob: nay, that the first necessary step towards carrying it into effect must be on our part a declaration of hostility."

Compulsion exercised towards the Nawab.

Your Lordships now see before your eyes, by a proof furnished by Mr. Hastings himself in his correspondence, and which is irrefragable, that this Nawab, who is supposed to have made this proposition, was dragged to the signature of it; and that the troops, which are supposed, and fraudulently and wickedly stated—and I wish your Lordships to observe that—to assist him in this measure he considered as a body of troops sent to imprison him, and to free him from all the troubles and pains of government. You will find it in your Minutes that Mr. Hastings has represented this body of troops as going up to assist him in this measure, being a measure of his own; and now we show your Lordships what the state of the man's mind was upon the occasion; how far it was a measure of his; and how far that body of troops, like any other body of troops, was to be sent for any other purpose than as an act of hostility. He declares it, and that he will consider their arrival and his deposition as one and the same act. And this is equally contrary to every law and every principle, and pursued for the basest and wickedest purposes by the worst means. What should you think of such a violence offered to such a man, who, driven to the brink of destruction and despair, and to his certain and approaching ruin, is driven to rob his family and the whole nobility of the country, who held their jagirs under the public faith, partly, of Great Britain, the usages of India, and the grants of his own father? No wonder that the poor unfortunate man was plunged into despair, with

these things ordered by such a man as Mr. Hastings—enforced by such a man as Mr. Middleton! 7 June 1794.

And I must press to your Lordships that I do not know a greater insult to a man born to command than to see [himself made the tool of]* a set of unknown men, come from an unknown country, without anything to distinguish them but an usurped power. Never shall I part from these maxims out of compliment to anybody, because they happen to be my own countrymen. But if we send out obscure people, unknowing and unknown, to exercise such acts as these, I must say it is a bitter aggravation. Oppression and robbery are not good anywhere, but they are more bearable from those persons whom we have been habituated to respect, and whom mankind for ages have been accustomed to bow to.

Now, to show your Lordships what it was that reduced the Nawab to this state of distress and destruction—to show you what violence it was, I shall go back to Mr. Middleton's letter, before he attempted to usurp the Nawab's power for these wicked and flagitious purposes; and then you will judge upon what ground of justice the Nawab was driven to the state of despair to which he was driven—not because he was a tyrant going to be deposed, but because they wanted him, in the name of power, royalty and authority, to exercise the most detestable tyranny under their own base, cruel, unmanaged, violence and wrong. You will see by Mr. Middleton's letter what it was that reduced the Nawab to that tyrannical state of mind. In your Lordship's Minutes, page 803, there is a letter of Mr. Middleton:—

"Lucknow, the 6th December, 1781.

Letters of Mr. Middleton.

"Finding the Nabob wavering in his determination about the resumption of the jaghires, I this day, in presence of and with the minister's concurrence, ordered the necessary perwannas to be written to the several aumils for that purpose; and it was my firm resolution to have despatched them this evening, with proper people to see them punctually and implicitly carried into execution. But, before they were all transcribed, I received a message from the Nabob, who had been informed by his minister of the resolutions I had taken, entreating that I would withhold the perwannas until to-morrow morning, when he would attend me and afford me satisfaction on this point. As the loss of a few hours in the despatch of the perwannas appeared of little moment, and as it is possible the Nabob, seeing that the business will at all events be done, may make it an act of his own, I have consented to indulge him in his request; but be the result of our interview whatever it may, nothing shall prevent the orders being issued to-morrow, either by him or myself, with the concurrence of the ministers. Your pleasure respecting the Begums

Continued reluctance of the Nawab to carry out the measure.

* Revised copy.

7 JUNE 1794. I have learnt from Sir Elijah; and the measure heretofore proposed will soon follow the resumption of the jaghires. From both, or indeed from the former alone, I have no doubt of the complete liquidation of the Company's balance."

In the same page there is this letter:—

"The 7th of December, 1781.

"My dear Sir,—I had the honour to address you yesterday, informing you of the steps I had taken in regard to the resumption of the jaghires. This morning the Vizier came to me according to his agreement, but seemingly without any intention or desire to yield me satisfaction on the subject under discussion; for, after a great deal of conversation, consisting on his part of trifling evasions and puerile excuses for withholding his consent to the measure, though at the same time professing the most implicit submission to your wishes, I found myself without any other resource than the one of employing that exclusive authority with which I consider your instructions to vest me. I therefore declared to the Nabob, in the presence of the minister and Mr. Johnson, who I desired might bear witness of the conversation, that I construed his rejection of the measure proposed as a breach of his solemn promise to you, and an unwillingness to yield that assistance, which was evidently in his power, towards liquidating his heavy accumulated debt to the Company; and that I must in consequence determine, in my own justification, to issue immediately the perwannas, which had only been withheld in the sanguine hope that he would be prevailed upon to make that his own act which nothing but the most urgent necessity could force me to make mine. He left me without any reply; but afterwards sent for his minister and authorised him to give me hopes that my requisition would be complied with. On which I expressed my satisfaction, but declared that I could admit of no further delays; and unless I received his Excellency's formal acquiescence before the evening, I should then most assuredly issue my perwannas; which I have accordingly done, not having had any assurances from his Excellency that could justify a further suspension. I shall as soon as possible inform you of the effect of the perwannas, which in many parts I am apprehensive it will be found necessary to enforce with military aid. I am not, however, entirely without hopes that the Nabob, when he sees the inefficacy of further opposition, may alter his conduct, and prevent the confusion and disagreeable consequences which would be too likely to result from the prosecution of a measure of such importance without his concurrence. His Excellency talks of going to Fyzabad, for the purpose heretofore mentioned, in three or four days. I wish he may be serious in his intentions, and you may rest assured I shall spare no pains to keep him to it."

Tyranny of Mr. Hastings.

Now, does the history of tyranny furnish—does the history of popular violence deposing kings furnish—anything like the dreadful deposition of this prince, and the cruel and abominable tyranny that has been exercised over him? Consider, too, for what object this was done. Was Mr. Hastings endeavouring by this force to screen a people from the usurpation and power of a tyrant—from his strong and violent acts against property, against dignity, against nobility, against the freedom of his people? No: you see a monarch

here deposed by persons pretending to be his allies, giving his commands as the motive for it. You see him struggling against this shameful violence, against this abuse of his name and authority, against this prostitution of his name and power. He refuses the sanction of his name, which before he had given up to Mr. Hastings, to make what uses he pleased of it. Yet here he stands his ground. Here he suffers. Here he makes use of what Mr. Middleton calls trifling evasions and puerile excuses:—"though he professes to have obeyed your commands, to have implicitly submitted to your will, yet he makes trifling evasions and puerile excuses." That is to say, the poor man, insulted, made an instrument of a wrong which his soul abhors and hates, and which he knows must make him infamous throughout the world, makes a stand at last. Mr. Middleton assumes the sovereignty of the country; says, "I am Nawab of Oude, and your jagirs shall be confiscated. I have given my orders for it, and I know it must be supported by a military force." 7 JUNE 1794.

I am almost ashamed so far to have distressed your Lordships' honourable and generous feelings as to have pointed this out to you, or to have made any remarks which your Lordships must have run before me in making, upon the occasion. Feelings which you have, and ought and must have, feelings born in the breasts of all men, and much more in men of your Lordships' elevated rank [render my remarks unnecessary].* An ambassador at a prince's court deposes that prince, forces him to be a tyrant, and when he is not able to get that poor unfortunate prisoner to put his name to it, he openly and avowedly assumes the sovereignty of the country—puts his own name to the orders for this horrible confiscation, and they are all dispossessed of their jagirs; and Mr. Middleton immediately mortgages the whole to the usurers of Benares, to suck the blood of the people at their pleasure! He drives out those whose interest, whose duty, whose feelings and whose habits, led them to protect the people. And whom does he send in their stead? A body of foreign usurers were put into possession of all those estates. Was it necessary so to do?

Resumption of the jagirs.

Introduction of foreign usurers.

Mr. Middleton has told your Lordships that those jagirs would pay the Company's debt completely in two years. Your Lordships see that there were effects abundantly sufficient for it. Then, would it not have been better to have

* Revised copy.

7 JUNE 1794. left it in the hands of the people? Would it not have been better to have oppressed them in some modest, decent, way, and then have said—you shall mortgage yourselves and give security to those bankers of Benares: you shall take these foreign bankers, and, giving security at two years purchase for the payment of the whole, you may get five or six years and leave the people something to live upon? O no! They must have nothing to live upon. They must be turned out. Why? Mr. Hastings commands it. And here I must come in aid of Mr. Middleton a little, to pity the miserable instruments that are under [Mr. Hastings]. I do not mean to apologise for Mr. Middleton, but to pity the situation of persons who, being servants of the Company, were converted by usurpation and wrong of this man to be his servants and his subjects. Mr. Middleton revolts at it. You see him reluctant. The Nawab begs a respite. You find in him a willingness to grant the respite: he feels: he writes to Mr. Hastings. Mr. Middleton himself even is placable. Mr. Hastings' resolution to rob and to destroy was not to be moved, and the estates of the whole Mohammedan nobility of a great kingdom were confiscated in a moment. I have just stated to your Lordships his motives and reasons for it. They are such as aggravated his crime, by attempting to implicate his country in it. He says, he was afraid to go home. Afraid of what? Was he afraid of coming to a British tribunal, and saying,—"Through justice, and through a regard for the rights of the sovereign, a regard to the rights, the ease and satisfaction, of the people, I have lost something?" No; says he,—"I have gone to Benares to rob. I have not got the fruits of this robbery. I must get it somewhere, or I dare not appear before a British House of Commons, a British House of Lords, or any other part of the kingdom. But let me get money enough, they won't consider how the estates of whole bodies of nobility are confiscated. They won't consider how people who had lived under their protection are given up into the hands of foreign usurers. They will suffer me, by Mr. Middleton, and by the troops which I have described as a set of robbers—nothing else—nothing short—to exercise [arbitrary power];—they will suffer all this, provided I can get money." That was Mr. Hastings' motive; and you see, if your Lordships, in your judgment and in your sacred character of the first tribunal in the world, will justify this, then you sanction the greatest wrongs that have

Compulsory treatment of Mr. Middleton.

7 JUNE 1794.

been ever known in history. Here your Lordships will observe that he orders him to allow no forbearance. Printed Minutes, page 807 :—

Imperious letter of Mr. Hastings.

"Sir,—My mind has been for some days suspended between two opposite impulses; one arising from the necessity of my return to Calcutta; the other from the apprehension of my presence being more necessary and more urgently wanted at Lucknow. Your answer to this shall decide my choice.

"I have waited thus long, in the hopes of hearing that some progress had been made in the execution of the plan which I concluded with the Nabob in September last. I do not find that any step towards it has been yet taken, though three months are elapsed; and little more than that period did appear to me requisite to have accomplished the most essential parts of it, and to have brought the whole into train. This tardiness, and the opposition prepared to the only decided act yet undertaken, have a bad appearance. I approve the Nabob's resolution to deprive the Begums of their ill employed treasures. In both services it must be your care to prevent an abuse of the powers given to those that are employed in them. You yourself ought to be personally present. You must not allow any negotiations or forbearance, but must prosecute both services until the Begums are at the entire mercy of the Nabob, their jaghires in the quiet possession of his aumils, and their wealth in such charge as may secure it against private embezzlement. You will have a force more than sufficient to effect both these purposes.

"The reformation of his army and the new settlement of his revenues are also points of immediate concern, and ought to be immediately concluded. Has anything been done in either?

"I now demand, and require you most solemnly to answer me;—are you confident in your own ability to accomplish all these purposes, and the other points of my instructions? If you reply that you are, I will depart with a quiet and assured mind to the Presidency, but leave you a dreadful responsibility if you disappoint me. If you tell me that you cannot rely upon your power, and the other means which you possess, for performing these services, I will free you from the charge. I will proceed myself to Lucknow, and I will myself undertake them; and in that case, I desire that you will immediately order bearers to be stationed for myself and two other gentlemen between Lucknow and Allahabad, and I will set out from hence in three days after the receipt of your letter.

"I am sorry that I am under the necessity of writing in this pressing manner. I trust implicitly to your integrity. I am certain of your attachment to myself, and I know that your capacity is equal to any service; but I must express my doubts of your firmness and activity, and above all of your recollection of my instructions, and of their importance. My conduct in the late arrangements will be arraigned with all the rancour of disappointed rapacity, and my reputation and interest will suffer a mortal wound from the failure of them. They have already failed in a degree, since no part of them has yet taken place but the removal of our forces from the Douab and Rohilcund, and of the British officers and pensioners from the service of the Nabob, and the expenses of the former thrown without any compensation on the Company.

"I expect a supply of money equal to the discharge of all the Nabob's arrears, and am much disappointed and mortified that I am not now able to return with it.

7 JUNE 1794.

"Give me an immediate answer to the question which I have herein proposed, that I may lose no more time in fruitless inaction."

"I must have money. Inquiries are going on concerning me,"—as he knew there were in the House of Commons.—"If I do not bring money, if I do not bring that great excuse for everything, that salve for every sore, that plaister that covers every kind of wound, that expiation of every crime—let me bring that and all is well. Try your nerves: are you equal to these services? Try yourself: see what is in you. Are you man enough to come up to it?" says the great robber to the little robber—says Roland, the great robber, to all the rest:—"are you equal to it? Do you feel yourself a man? If not, send messengers and daks to me, and I, the great master tyrant, will come there myself, and put to shame all the paltry delegate tools of despotism that have not edge enough to cut [their way] through and do those services I have ordained for them." Accordingly, the jagirs were all confiscated; the families all turned out; the possessions all delivered up. There is an end to the whole. Why? Because Mr. Hastings must have the excuse of money to plead, at the bar of the House of Commons, first, and afterwards, at the bar of the House of Lords!

No compensation given to the jagirdars.

The next thing to be asked is:—were pensions given to them? I suppose your Lordships are not idle enough to ask that question. No compensation—no consideration whatever was given or stipulated for them. If there had been, he could have proved it; he must have proved it. The means were easy to him. But we have saved him the trouble and have proved the contrary; and, if called upon by and by, we will show you the place.

Now I have shown your Lordships how Mr. Hastings, having with such violent and atrocious circumstances usurped the government of the country of Oude,—I hope I need not use any other proof that the Nawab was of non-existence in the country,—Mr. Hastings having usurped all the power of the country, you see how he has treated the landed property of the country. Then the next question will be:—how has he treated whatever monied property was in the country? My Lords, he looked over that great waste—he looked over that immense waste, not like the view in which Satan looks over the kingdoms of the world from a great height and sees the power and glory of them; but he looked over the waste of Oude which he had made, with a diabolical malice which

one could hardly suppose [existed in the prototype]* himself. He found nowhere above ground one single shilling that he could attack—not one! Every place had been ravaged: no money remained anywhere above ground and to be seen. "Why, probably some is buried in vaults, hid and concealed from the grasp of tyranny and rapacity, and I must get at it. Where can I get at it? I find but one great illustrious family that is thought to have accumulated a vast body of treasures through three or four successive reigns. It does not appear openly, but we have good information that very great sums of money are bricked up and kept in vaults under ground, and secured under the guard of a fortress, and at the same time by a double and treble guard, in the manner of the country, which makes everything that is in the hands of women sacred. But, as it is said, nothing is proof against a golden shower, the strong tower will give way, if Jupiter makes [love] to them in a golden shower." This Jupiter is making love to these ladies, not in a golden shower, but he is to make love to them for their golden shower which was there. This Jupiter does not come with gold for their persons, but he comes to their persons for their gold. This impetuous lover, Mr. Hastings, who would not be stayed from his object, who wanted to fly with all his wings, and desired to annihilate space and time between him and his object, had then another object.

7 June 1794.

Concealed treasure of the Begums

Your Lordships have already had a peep behind the curtain in this business. For, in the first orders to Mr. Middleton, in the treaty of Chunar, you see nothing but a desire, and that obliquely, to get at all the landed estates of all these great families. But, while he feels such reluctance in the Nawab, while he feels such a resistance upon the part of every human creature, when Mr. Middleton is obliged to remove—as appears in the Minutes—his wife and family out of the country, for fear of these accidents that he has no mind to expose them to, Mr. Hastings charges him with a more obnoxious, dreadful, act. "While I was meditating," says he, "upon this, your orders came to me through Sir Elijah Impey." It is all obscure in the letter: it is yet but as in a mist and a cloud. But Sir Elijah Impey did convey to him, some way or other, some means of getting at more wealth by another service, which was not to supersede this or exchange one for the other, but to be concurrent with it; in

Complicity of Sir Elijah Impey.

* Revised copy.

7 JUNE 1794. which this great object was to be accomplished upon which Mr. Hastings had given him these dreadful charges and this horrible responsibility, with which he loads this man, and goads two reluctant victims, first, the reluctant Nawab, then the reluctant Mr. Middleton; forcing the bayonet behind them, and urging the former forward to all mischief; at last urging him to violate his mother's house.

First, your Lordships have seen—and I need not go further, because I do not mean to tread any ground which has been trod by a most able fellow Manager, who has gone before me upon this subject:—I hope your Lordships do not suspect me of any such design:—I have only just to call to your memory that Sir Elijah is the person who carried up this message. We have charged it as an aggravation, that the chief justice [notwithstanding] the sacred nature of his office, and the peculiar sanctity that is given by being sent out by an express regulation made in Parliament, for the redress of the natives, should be made an instrument for destroying the property, real and personal, of the nation; and that there is no act of atrocity, or [crime] which appeared more [than commonly] horrible in the eyes of the natives, that that man was not the private instrument of executing. We did not know at first, that all this private intrigue for the destruction of this high woman was carried on through the intrigue of a chief justice. I feel that shame and that horror both for the instrument and the principal—himself an instrument—that I think it impossible for anything but complete and perfect silence to describe my feelings upon the occasion.

Right of the Begums to the treasure.

But by Sir Elijah Impey that order was carried up to confiscate the treasures of the Begums. We know they had no claim upon the treasures of the Begums. We know the contrary. Two treaties were made for the protection of them. We know that, while he was contesting about some elephants and carriages, and things that he said were in the hands of his steward, he did allow that the treasures in the zanana, or in the custody of his grandmother and mother's principal servants—that these were their property. This is the Nawab who is supposed now to be employed for the destruction of his nobility: we find him employed for the breach of the sacred trust which is in every governor, to support his subjects in their property. Now you find him going to be made the instrument to destroy his mother, grandmother, and everything else that ought to be dear to mankind, in the whole living train of his family, and to

disgrace all the dead that preceded him; whose tombs and monuments were to be seen throughout the country. 7 June 1794.

The first observation that we make to your Lordships is this:—that Mr. Hastings having first resolved—for you find no trace of any ground whatever for it before—Mr. Hastings having resolved to seize upon these treasures, secured, in the manner in which I have stated, by every kind of tie—by the tie of interest, by the tie of prejudice, by the ties of family affection, and by the ties of no less than two treaties—Mr. Hastings having resolved to come at them, is at a loss for some mode and manner of justifying it; and the first justification he gives of it is this; he begins to discover then what I never knew any tyrant that had not ready immediately at his hand. The first expedient is, to set up a false title to these treasures. I say, Mr. Hastings, because by this time I suppose your Lordships will not bear to hear the Nawab's name on such an occasion. Mr. Hastings therefore sets up a title, under the name and pretence of the Nawab, to the goods of these women, and he declared by the Mohammedan law these goods did belong to him. Whether they did or did not, he had himself been an active instrument in the treaty for securing these goods to them, which he is now going to unlock by his construction of the Mohammedan law. We shall state a little upon that. He sets up a title to them. As to his guarantee—how is he to get rid of that? By the common way:—"You have rebelled. You have taken up arms against your own son,"—for that is the pretext,—"and therefore my guarantee is gone; and your goods, whether you have a title to them or no, are to be confiscated for your rebellion."

False title set up by Mr. Hastings on the part of the Nawab.

Alleged forfeiture of the guarantee.

My Lords, I cannot help observing to your Lordships the strange situation in which we stand. First, I shall speak as to the title; and then I shall speak as to the rebellion. Though, it having been stated that they had taken up arms to cut the Nawab's throat, it would require no person to come from the dead to prove to us, if that was proved sufficiently, that the Nawab—not Mr. Hastings, but that the Nawab—had a right to his own security, and to his own indemnification, out of these treasures, which, whether they belonged to him or not, were employed in hostilities against him, even by his mother or whomever else. The law of self-defence is above any other laws; and, if any person draws the sword against you, violence on your part is justified, by using your sword to take from them that property by which they get that sword. I need not take any pains

7 JUNE 1794. to prove to your Lordships that which no man living could deny.

But they do not trust to that. No: they set up a title; and the title set up is this:—say they,—"It belongs to the Nawab. It is the property of the state. This woman had secreted it. The mother has robbed her son and kept him out of his rightful inheritance." Now, they produce the Hedaya, to show you what proportion of the goods of a Mussulman, when he dies, goes to his family. Their way is this:—In all other cases the question of law is first tried, in order to ascertain our right to property, but Mr. Hastings, who is a great, eccentric, genius, goes out of all these ways; he first seizes upon the property, and then produces some Mohammedan writings to prove that they had no title to the goods they held. To say no more, I hope your Lordships in no judicial court, and no British subject when called to be a juror, when called to be a judge, will ever allow these retrogade proceedings:—that is to say, he, at Fyzabad, seizes the goods of these ladies, and at your bar he justifies it upon the Mohammedan law. You would naturally expect that, when going to seize upon those goods, he would consult his late chief justice; for Sir Elijah Impey went with him. He might have consulted him wherever he went. He who went with him might have told him what was the Mohammedan law; for, though he had not taken his degree—he was not a mufti or a maulavi—yet he had muftis and maulavis he might have consulted; and then Sir Elijah Impey, with his learned [muftis] might confirm all the doctrine he had got from the doctors of the Mohammedan law. If he consulted Sir Elijah Impey, where is Sir Elijah Impey's maulavi upon this occasion? Where is his judgment? Where were the parties before him? Where was the examination into the cause and titles of these women? Sir Elijah Impey was nothing but a common harkara, nothing but a common messenger, but a tipstaff, to carry these sort of things, but not fit to try these rights or to decide upon them. He has told you, he did not know any title that Mr. Hastings had to seize upon the property of the Begums, but this hypothesis that Mr. Hastings had made of the rebellion. He was asked if he knew any other reason. No. Consequently Mr. Hastings, who had before him his doctors of all laws who could let him know all enigmas and riddles of all the laws in the world, and who himself shone upon questions of Mohammedan law, as anyone may see in the case of the [Nudea] Begum, did not dare to put the case to Sir Elijah Impey. He did not say,—

Illegal manner of proceeding on the part of Mr. Hastings.

His omission to consult either Sir Elijah Impey or Ali Ibrahim Khan on the question of title.

"Here is such a case. Give me your fatwa, and let me know what you think concerning the peoples' rights." I will suppose he was tender of Sir Elijah Impey; for Sir Elijah Impey, though a very good man to take an affidavit or run on a message, to do the business of an under sheriff, tipstaff, or bum-bailiff, is not fit to give a law opinion upon business. He is fit to write a letter, to take affidavits in a corner. All this he is fit for, but not fit to give an opinion on a question of law. 7 June 1794.

You have heard of Ali Ibrahim Khan. Mr. Hastings has covered all his injustice and all his violence by taking a great deal of pains here upon that subject, by proving what good he had done at Benares by taking Ali Ibrahim Khan with him, where Ali Ibrahim Khan was darogha, or chief justice, made by him there. All that we know of him, except the high character given of him by Mr. Hastings, is, I believe, that he is the Ali Ibrahim Khan who, in the Company's records, I find mentioned as a person giving bribes, upon some former occasion, to Mr. Hastings. But whatever he was, he was a doctor of the Mohammedan law; he was a mufti, and a person made darogha in a criminal court; exercising, as I believe, likewise a considerable civil jurisdiction; and therefore he was qualified [as a lawyer]* not only probably by his knowledge; and Mr. Hastings cannot object to his qualification either of integrity or of knowledge. He was with; him why did he not consult him upon this law? Why did not he make him out the case, as when they make a case of John and Richard Roe, of John Stokes and John a Nokes? Why not say,—"Sinub possesses such things, under such and such circumstances. Give me your opinion upon it." No such thing!

But—and which is a very extraordinary thing—this chief justice made by himself, as well as that other chief justice that he led about with him in a string—these two chief justices—one an English chief justice with a Mohammedan suit in his court, the other a chief justice of the country, the Mohammedan chief justice, darogha of a court of justice, and acting in the character, in English, of chief justice—these two chief justices he had there, and he consults neither of them. But he employs them both; for we find Ali Ibrahim Khan is employed in the same subservient capacity in which Sir Elijah Impey was, to keep the law of England and the law of Mohammed upon a just par; for that is the thing

* Revised copy.

7 June 1794. Mr. Hastings values himself upon. These two chief justices were never consulted, nor one opinion taken; but they were both employed in the private execution and correspondence of this abominable project, when he had neither leisure himself, nor, perhaps, dared give his public order in it till things got to greater ripeness. He never asked them a question.

Question submitted to Sir Elijah Impey.

Of Sir Elijah Impey indeed he did ask a question:—upon my word, it did not require to be the Œdipus or the Sphinx Sir Elijah Impey was: says he,—"I asked Sir Elijah Impey"—[what?]—a question on the title between the Nawab and his mother? No; he never asked him a word, but he puts an hypothesis:—

"Supposing a rebellion in that country, will the Nawab be justified in seizing the goods of the rebels?"

That is a question decided in a moment; and I must have had a malice to Sir Elijah Impey, of which I am incapable, to have denied the propriety of his answer. But observe, there is something very good in it. He does not take upon him [to say] one word of the actual existence of a rebellion, though he was in the country, and he might have been a witness to it; but so chaste was his character as a judge, that he would not touch the least upon the jury's office:—"I am chief justice here, though a little wandering out of my own orbit,—yet still the sacred office of justice is in me. Do you take the fact: I find the law." So one is the body, the other is the soul. Which has the better bargain between the law and the fact—the facility of the law and the great uncertainty of the fact? And yet, as Sir Elijah Impey was there, if it was not for this sacred attention he has to keep jurisdiction separate, he might have been a tolerable judge of the fact. Just as much as Mr. Hastings; for neither of them knew it any other way, as it appears afterwards, but by rumour and reports—I believe, of Mr. Hastings' own; for I do not know that Sir Elijah Impey had anything to do with that report of Mr. Hastings' own spreading. Therefore, with regard to the title of these ladies according to the Mohammedan law, you have nothing but a quotation cut with the scissors out of the Mohammedan law book—which I suspect very much the gentlemen have never read through—to tell how a Mohammedan's effects are distributed. Mr. Hastings could not have consulted that learned Counsel; he could not have taught him to defend him upon the principles of the Hedaya, the Hedaya being not published in English at that time.

Justification of the seizure founded on the Hedaya.

7 June 1794.

Neither Sir Elijah Impey, nor Ali Ibrahim Khan, nor any one person, high or low, in England, could have told them upon that point of law till they found the Hedaya. "God bless me!" [now says Mr. Hastings]* "what ignorance I was in all this time! I thought I was seizing this unjustly; but my Counsel have found out a book published since." And they produce the law upon that subject, and show that the Nawab had a right to seize upon the treasures of his mother. Are your Lordships so ignorant—your Lordships are not ignorant of anything—are any men so ignorant, as not to know that the common law distribution of the estate of an intestate in a particular case, between individual and individual, is no rule with regard to the family arrangement of great princes? Is any one ignorant, that, from the days of the Persian monarchs, which is become the rule since for almost all the monarchs of the East, the wives of great men have had, independent of this kind of distribution of their goods, great estates in land, great sums of money—one for her girdle, one for her veil, and so on going through the rest; that they have great estates, great valuable effects, in which it is not supposed that the present monarch, or his successors, or any other person has any share whatever? They are their own. They are their gifts and their donations. But what say the Counsel here? It is very curious; for a more humiliating species of trial never was since the world began: first, to begin with seizing the goods at Fyzabad, nine thousand miles from you, and trying the title fourteen years after in an English court, without having one person to appear for these miserable ladies. I hope you will never do it. I hope that last and ultimate shame will be spared; for, I declare to God, the defence and the principles of it are ten thousand times worse, as it strikes me, than the act itself.

Property held by eastern princesses.

Incompetency of the court to try the question of title.

The Counsel have thought proper to say to your Lordships that the Commons have been cautious;—their words were, I believe, pretty exactly, "it is tender ground." We did not say that the Begums were intitled to, but only that they were possessed of, certain sums of money,—and so on.

My Lords, most assuredly it was tender ground. We did say "possessed" and not "intitled." We are as incapable of being taken in by these senseless distinctions, as we are incapable of using them. We said possessed—not intitled.

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* Revised copy.

7 June 1794. Why? Because we were not competent to judge upon their title; because your Lordships are not competent to judge upon their title; because no part of this tribunal are competent to judge upon their title; because you have not the parties before you; because you have not the cause before you, but are getting at it by oblique, improper and indecent, means. You are not a court of justice to try that question. The parties are at a distance from you. They are neither represented by themselves nor any counsel, advocate or attorney. And I hope no House of Lords will ever judge upon the title of any human being—much less upon the title of the first woman in Asia—sequestered, shut up from you, at nine thousand miles distance.

I believe, my Lords, that the [Emperor of Hindustan],* while Delhi stood and the fortune of that Priam remained, little thought that an English subject of Mr. Hastings' description should domineer over the Wazir of his empire, and give the law to the first persons in his dominions. He as little dreamed of it as any of your Lordships dream now that you shall have your property seized by a delegate from Lucknow, and [have it] tried by what tenure a peer or peeress of Great Britain hold, the one, his estate, and the other, her jointure, dower, or share of her goods, her paraphernalia, or anything else,—that they should try that at Lucknow. If any such thing should happen,—for we know not what may happen: we live in an age of strange revolutions, and I doubt if any more strange than this,—the Commons of Great Britain would shed their best blood that there should be no tribunal at Lucknow that should decide upon your titles, to justify a robber that has taken your goods. We should do the best we could, if such a strange circumstance came to pass.

The Commons, who represent Lucknow, who lately took 500,000*l.* of their money, who consider them as our own, will not suffer them first to be robbed, and then their titles to the goods that they possess by the laws of the country to be tried by a British tribunal. Why did they not do it before Mr. Hastings? Does he march with judges, muftis, lawyers, and all that apparatus, to demand this claim of the Nawab? No such thing! He marches not with maulavis, not with muftis, not with all the solemn apparatus of oriental justice. No: he goes with colonels, and captains

* Revised copy.

and majors. These are his lawyers. And, when he gets there, he demands — not their title,—"produce me your titles;" no:—"Give me your money." It is a shame—and I will venture to say these gentlemen upon recollection will be ashamed of it—to see the bar justify what the sword is ashamed of. I have, in reading this correspondence, found these great muftis and lawyers, these great chief justices, attorney-generals and solicitor-generals, called colonels and captains, ashamed of these proceedings, endeavouring to mitigate them; and yet we see British lawyers, in a British tribunal, supporting and justifying these acts, as if they had no title. 7 June 1794.

The learned Counsel ask, whether these ladies possessed these treasures by jointure, dower, will, or settlement? I answer to them that they ought to be ashamed of this language. When you send your colonels, captains and majors, there, why did not they ask whether they held them by jointure, dower, will, or settlement? They have asked none of these questions. And now we are come, at nine thousand miles distance, to overhaul their title, when you have neither of the parties before you, nor their wakil, attorney, solicitor, nor any human being, to help them in their disconsolate situation at all. Are you, at nine thousand miles distance, to be trying the titles of women buried in the depths of Asia, buried in the depth of the seraglios, concealed from human eye? Why, do they dream, do they imagine, in the most confused and melancholy imaginations, that you can be here trying such a question, and venturing to decide the law upon it? Your Lordships will never do that. If you do, you are not fit to subsist as a tribunal for an hour; and if we did not bring the cause before you as the heaviest aggravation, we should betray our trust as representatives of the Commons of Great Britain,—which I hope we never shall. We have no authority but what we derive from the execution of their will. We will never give it up, that such a principle should be established in a court of justice, that one of our governors should seize upon the properties of the first women in Asia, and try their cause here after he has seized them, and call upon them to produce their titles, which they are not here to produce. Having made this protest in favour of law, of justice and good policy, permit me to take a single step more.

Probable sources of the Begum's wealth.

I will now show your Lordships that it is very possible—nay, very probable and almost certain—that a great part of whatever they might have been [possessed of] was a

7 JUNE 1794. saving of their own, and independent of any grant from the husband or anybody else. It appears in the papers before you that these unfortunate ladies had about 70,000*l.* a year, landed property. It is in evidence before your Lordships—Mr. Bristow states—that their expenses were not above a lac and a half; that their income was about seven lacs; that they possessed this for twenty years before the death of Suja-ud-Dowla, and after the death of Suja-ud-Dowla to the day of the robbery.

Now, if your Lordships will begin to calculate in your own minds what the savings of an income of 70,000*l.* a year will be, when the party spends but about 15,000*l.* a year, you will see that, by a regular and strict economy, these people may have saved for a provision for their family a considerable property, independent of any other titles. There is a rational way of accounting why they should, by mere economy, have been extremely rich.

It may be supposed likewise, that they had all those advantages which ladies of the first rank have in that country—gifts at marriages, &c. We know that there are deeds of gift by husbands to their wives during their lifetime; and there are many means by which women in Asia do possess very great property. The last is the circumstance of economy—in saving—which we have proved at your bar, might rationally account for the possession of very great wealth. But Mr. Hastings has taught to all the world the danger of much wealth, and the danger of economy, which is the parent of much wealth. He has shown them that they are only saving, not for their families, their helpless race, but for tyrants, robbers and oppressors. I am ashamed to have said so much upon their titles: but I have shown your Lordships that Mr. Hastings had taken no opinion of lawyers of any name or any description; that the Nawab, who was his poor instrument, had no such opinions; that they never asked them one word concerning their titles, or to produce any part of them, when he robbed them in this way.

Refusal of the Nawab to advance a claim to the treasures.

One observation more, and I have done with this. It is, that the Nawab himself never has made such a claim. Even Mr. Hastings, his despotic master, has never got him regularly and systematically to make such a claim. The very reverse of it! When urged to do these violent things by Mr. Middleton, you have seen his horror at all these acts. You have seen he reluctantly lends his name to it; and, when he does so, he is dragged like a victim to the stake.

And where do we find, in the beginning of this affair, that he enters such a claim? No; when dragged to do this wicked act, out of his lips drops something that was rather forced into his mouth, and he was forced to spit it out again;—something—that he might have had some right to them. 7 JUNE 1794.

Then we come to the other part; the manner in which they executed this choice act. They forced the Nawab, in a manner, himself to accompany their troops and their Resident, Mr. Middleton, to attack the city, to storm the fort in which these ladies lived—as all the great ladies of the East do live—to outrage their persons, to insult their character, to degrade their dignity, and to rob them of all they had.

Dignity of the Begums.

Now, to show who the Munny Begum was, who was one of those persons that were robbed in that place of this large treasure, I will refer your Lordships to page 427 of the printed Evidence, Major Brown's evidence;—a man who was at Delhi, who was at the fountain head of all the nobility of India, and knew very well who they were—who this woman was, who was treated with such indignity by the prisoner. It is no uncommon thing, when one man robs another, to call him gorbelly, dog, and any vile name. It is the common practice of robbers to abuse those that they rob. Now I will show what this family was that was thus abused, from the evidence of Major Brown:—

Evidence of Major Brown.

"What was the opinion at Delhi respecting the rank, quality, and character of the princesses of Oude, or of either of them?"—"The elder Begum was looked upon as a woman of high rank. She was, I believe, the daughter of Saadit Ali Khan, who was a person of high rank in the time of Mahommed Shah."—"Do you know whether any woman in all Indostan was considered of superior rank or birth?"—"I believe not, except those of the royal family. She was a near relation to Mirza Shuffee Khan, who was a noble of nobles, the first person at that very day in Indostan."

Another question in the same examination from a Lord:—

"Whether in that conversation with Mirza Shuffee Khan, of which you have given an account, he did, in speaking of what is now understood clearly to be a second attempt, express in any terms whatsoever any resentment of the former attempt?"—"He did not positively refer to a former attempt, but he spoke of the attempt that was then suspected in terms of resentment, and as a disgrace in which he participated, as being related by blood to the house of Suffder Jung, who was the husband of the old Begum."

He says afterwards, in his evidence, in page 429 or thereabouts, that he was the second man in the Mogul empire,

7 JUNE 1794. her father the first man in the Mogul empire. And the Mogul empire, when this woman was born into the world, was an empire of that dignity that kings were its subjects; and this very Mirza Shuffee Khan that we speak of, her near relation, was then a prince with a million a year revenue —a [Mirza], that is to say, the first man as to his rank after the Mogul in the Mogul empire.

My Lords, these were people that ought to have been treated with a little decorum. It may be supposed that their husbands, their fathers and their children, who considered their high rank that they derived from them, and considered it as a part of their pride, were not surprised that they were left in possession of great revenues, and great landed estates, and great monied property, which belonged to the situation of women who stood so high that we have nothing in Great Britain to compare in rank to them. This lady was descended from the royal family, who at the time was subject to the great Mogul there, possessing revenues of millions themselves.

Sums necessary for the marriage portions of the princesses.

All the female parts of their families, whose alliances have been courted before, could not be set out in a manner agreeable to the dignity of such persons but with great sums of money; and your Lordships, considering the multitude of children, and comparing sex and sex, will not believe that these women could be proffered in marriage, in a manner suitable to their dignity, but with immense sums. Accordingly, you do not hear of one of them that has since been given in marriage. Therefore you ought, when you pillage such a family, to consider all the consequences of it;—how you degrade the rank, lower the estimation, and prevent the alliances to which so great a family is intitled. But this has nothing to do with the rebellion. If they had rebelled to cut their own son's throat, there is an end of the thing.

No criminal charge brought against the Begums.

Then what evidence have you of that? I say that their defence aggravates infinitely their crime. Did they ever once state to those unfortunate women that there was any such rebellion? Did they ever charge them with it—desire an answer from them? Did they ever set the charge down in writing, or make it verbally, that they had conspired to destroy that son whom Mr. Hastings had brought there to rob them? No: they never did. As they never made a civil demand, so they never made a criminal charge. Nobody ever heard of that. Nobody mentioned that to them or to any person belonging to them.

My Lords, I will go further:—Mr. Hastings states the way in which they proceeded. I save your Lordships the trouble of [listening to] the manner in which they seized upon these people and dispersed their guard. It is supposed their having a guard is a proof of rebellion. Why, persons of their dignity, who did not think themselves inferior to their son—and they were not inferior to him in any sense—and who thought themselves superior in a great sense, when they had the country of Fyzabad under their immediate government—they kept for their dignity and protection about 4,000 or 5,000 troops. Mr. Middleton states that they found great difficulties in getting at their treasures; that they stormed their forts successively, but found great reluctance in the people to get within the inner enclosures of the apartments of the women. He says they were at a loss:—"But," says he, "as we could do nothing else but threaten to break into the sanctuary of the first women in Asia, there was no way of doing it but by threatening to take up their eunuchs." There were two eunuchs; Behar Ali Khan, and Jewar Ali Khan. The office is generally filled by a person who is a bought slave, and, from want of any connection in his own country, is supposed to guard both the honour of the women and the treasures with more fidelity than any other. We know it is the case in Constantinople and many other places that these persons are in the highest trust, and of great rank and dignity. They have a dignity and a rank consequently, to enable them to fulfil these great trusts; and Jewar and Behar Ali Khan were persons of as high rank and estimation as any people in the country, and were so considered. However, they got these people into their hands.

7 June 1794.

Arrest of Behar Ali Khan and Jewar Ali Khan.

"The eunuchs," says Mr. Hastings, "were seized not for the purpose of extorting money, as assumed in the Charge, but as agents and principal instruments of exciting the insurrection before alluded to, &c."

Pretext for their arrest.

Mr. Hastings declares that they were not seized for the purpose of extorting money; that they were seized in order to be punished for their crimes, and, *eo nomine*, for this crime of rebellion. Now this crime of rebellion could not have been done immediately by women themselves: no woman can come forward and head her own troops. Since the time of Zenobia, in another part of the East, you never heard that any woman did so. We know that, in Persia, no person can behold the face of a woman of the smallest rank or condition; no person can speak to them but through a curtain. Therefore they could not go out themselves and

7 June 1794. be active in a rebellion. But I own it would be some sort of presumption, if Jewar Ali Khan and Behar Ali Khan had headed troops and been concerned in a rebellion. And they have taken abundance of pains to show that such persons do sometimes head armies and command legions in the East; which we know they do; and, if they had behaved in this way—headed armies and commanded legions—it would have been a fair presumption that their mistresses were concerned in it. "Therefore," says Mr. Hastings, "we do not arrest them for the purpose of extorting money, but as a punishment for their crimes." By Mr. Middleton's account, you will see the utter falsity of that. God knows what he has said that is true. The curious thing would be, not to detect him in a falsity, but in a truth. The fact is, that you will see the utter falsity of this wicked allegation.

Letter of Mr. Middleton. Here is a letter from Mr. Middleton to Sir Elijah Impey; dated Fyzabad, the 25th of January, 1782 :—

"Dear Sir Elijah Impey,—I have the satisfaction to inform you that we have, at length, so far obtained the great object of our expedition to this place as to commence on the receipt of money, of which in the course of this day we have got about six lacks. I know not yet what amount we shall actually realise, but I think I may safely venture to pronounce it will be equal to the liquidation of the Company's balance. It has been at once the most important and the most effectual point of duty which has ever occurred in my office; and the anxiety, the hopes and fears, which have alternately agitated my mind cannot be described or conceived, but by those who have been witness to what has passed in the course of this long contest. The [Nawab's] ministers have supported me nobly, and deserve much commendation. Without the shrewd discernment and knowledge of the finesse and tricks of the country which Hyder Beg Khan possesses, I believe we should have succeeded but indifferently; for I soon found that no real advantage was to be obtained by proceeding at once to violent extremities with the Begum, and that she was only to be attacked through the medium of her confidential servants, who it required considerable address to get hold of. However we at last effected it; and by using some few severities with them, we at length came to the secret hoards of this old lady. I will write you more particulars hereafter.

"I am sorry to inform you my little boy still continues in a precarious way, though somewhat better than when I had last the honour to address you. My respects to Lady Impey. And believe me, with great regard, my dear Sir Elijah, your faithful, obliged and most affectionate, humble servant, Nathaniel Middleton."

Dissection of the letter. My Lords, we produce this letter to your Lordships because, as a letter written with "My dear Sir," and with a great deal of family matters, it is more like to discover the real truth, the true *genus* of a proceeding, than all the formal and official stuff that ever was produced. You see the tenderness of affection in which they proceed. You see it is

his "dear Sir Elijah;" that he does not tell the dear Sir Elijah, the Chief Justice of India, the pillar of the law, the great conservator of personal liberty and private property—he does not tell him that he has had the pleasure of convicting these eunuchs of any crime. He does not tell him he has had the pleasure of informing him of what matter he has got to ground a determination at law. He does not tell him that he has got the least proof of the want of title in those ladies. "No," says the dear creature.—You cannot help observing the soft language they use. You would imagine they were making love. You would imagine it a tender scene between Mr. Middleton and Sir Elijah Impey. You would imagine you heard the voice of the turtle in the land. You hear the soft cooing, the gentle addresses;—"O! my hopes to-day, my fears to-morrow;" all the language of friendship, almost heightened into love, of these two people. And it comes at last to— 7 June 1794.

"I have got to the secret hoards of these ladies.—Let us rejoice, my dear Sir Elijah: this is a day of rejoicing, a day of triumph and of comfort; for, by seizing upon her eunuchs, which we found a great deal of difficulty in doing, [we have obtained this triumph.]"*

You would imagine he had been breaking through the guards that we see lovers breaking through, when they want to get at ladies. All the guards of the seraglio—he breaks through all the guards, till he gets in at last to the hidden hoards of these old ladies. Never did a young lady excite such rapture. I defy all the charms this country can furnish to excite all those raptures which these two old women did—or rather which their hoards did—excite in the minds of Sir Elijah Impey and Mr. Middleton. "We have got to the secret hoards of this old lady!" And I verily believe there never was in the world a passion less dissembled. There nature speaks. There is truth; there is reason. The rest may be dissembled, but nobody doubted the joy of Mr. Hastings, Sir Elijah Impey and Mr. Middleton, at getting at the secret hoards of the old ladies.

"By a few severities!"—One would have thought you would have heard something of their crimes—something of their rebellion. No; you find the real criminal, the real object, was the secret hoards of the old ladies! We will show you how they proceeded afterwards. They proceeded by a few severities, gentle and tender, so well suited to the

* Revised copy.

7 June 1794. rest of the letter that you would imagine it somewhat like the . . . . or something of the kind;—"by a few severities upon them we have got at the secret hoards of these old ladies." First, they take an engagement from these unfortunate people at a definite sum, whether they had it or not, whether they could procure it or not. The Bow Begum has told us, as your Lordships have it in evidence, that they demanded from her a million of money: that she, of course, denied that she had any such sums. But Mr. Middleton forced these unfortunate ministers or treasurers, by some few severities, to give their bond for 600,000*l.*, whether they could get it or not.

Exaction of a bond for 600,000*l.* from the eunuchs.

They got at the secret hoard. They took themselves and received, in weight and tale, all the money that was in that place. Whether there was any more they never have discovered, with all their search, from that day to this. Therefore we fairly presume that they discovered all that they had to discover, with regard to money. You would imagine that, when these people gave all that was in their power, when they gave a bond for what they had not—for they were the treasurers of the money of other people—they would not have been severe to exact it. What do they do when they get it? They go to their own assay table, by which they measured the exchange of the coins in currency in Oude as compared with those at Calcutta. They go to these secret hoards. They judge upon the money. They examine it, as if they were receiving a debt; and they judge what this money would and ought to produce; not considering it as coming from people who gave all they had to give, but what it would produce at the mint at Calcutta, according to a custom that they had of their own, made for the profit of the Residents. And Mr. Hastings charges it upon Mr. Bristow as a crime that they had made that profit! Now this money was taken to that assay table, which they had invented for their own profit, to make a difference of advantage to themselves in transmitting money from Lucknow to Benares, and they made them pay a rupee and a half batta, or exchange of money, upon each gold mohur; by which and other charges they ran them 60,000*l.* more in debt. My Lords, they forced them to give a bond for that 60,000*l.*; and then you will see in what manner debts so contracted, so made with such persons engaging not for themselves; for they had nothing: all their property was, at least apparently, their mistresses,—you will see how they were exacted. We shall

Further exaction of 60,000*l.*

therefore beg leave to read to you their own account of their own proceedings; and then your Lordships will see whether they were proceeding against rebels as rebels, or against wealthy people as wealthy people; punishing them, under pretence of crimes, for their own profit. 7 June 1794.

Letter from Mr. Middleton to Mr. Hastings; page 825; after two other paragraphs:— Mr. Middleton's account of the transaction.

"It remained only to get possession of her wealth; and to effect this it was then, and is still, my firm and unalterable opinion that it was indispensably necessary to employ temporizing expedients, and to work upon the hopes and fears of the Begum herself, and more especially upon those of her principal agents, through whose means alone there appeared any probable chance of our getting access to the hidden treasures of the late Vizier. And when I acquaint you that by far the greatest part of the treasure which has been delivered to the Nabob was taken from the most secret recesses in the house of the two eunuchs, whence of course it could not have been extracted without the adoption of those means which could induce the discovery, I shall hope for your approbation of what I did. I must also observe, that no further rigour than that which I exerted could have been used against females in this country, to whom there can be no access. The Nabob and Solar Jung were the only two that could enter the zenana; the first was a son who was to address a parent, and of course could use no language or action but that of reiterated solicitation; and the other was in all appearance a traitor to our cause. When force could be employed it was not spared. The troops of the Begum were driven away and dispersed, their guns taken, her fort and the outward walls of her house seized and occupied by our troops at the Nabob's requisition, and her chief agents imprisoned and put in irons. No further step was left. And in this situation they still remain and are to continue (excepting only a remission of the irons), until the final liquidation of the payment; and if then you deem it proper, no possible means of offence being left in her hands or those of her agents, all her lands and property having been taken, I mean with your sanction to restore her house and servants to her, and hope to be favoured with your early reply, as I expect that a few days will complete the final surrender of all that is further expected from the Begum."

There are some things I shall remark to your Lordships. There were a few preliminary severities which Mr. Middleton used to get at their money. He did get at the money, amounting to about between 500,000*l.* and 600,000*l.* He got a bond for the payment of all the additional money, that they thought proper to fix at about 60,000*l.*; and then, in order to extort that other forced bond, and to make up their aggravated charges of usury and oppression, upon the first act of wrong and violence, they put these people into prison, without food and water, and put them into irons. This was the second imprisonment; and what followed the few severities your Lordships will remark. There came more severities. They continued to persecute, to oppress,

7 June 1794. to work upon these men by every motive of torture and of fear of torture, till at last, having found that all their proceedings were totally ineffectual, they desire the women to surrender their house. The women offer to go from house to house while they search. That offer appears to be pretty fair; though it is in evidence before you that to remove a woman from her own house to another house, without her consent, is an outrage of the first form, and for which many women have threatened to, and have actually, put themselves to death. Mr. Hastings, in the case of Munny Begum, considered such a proposition as the last degree of outrage that could be offered. These women offered to go from house to house and let them search. "No," say they, "it may be bricked up, in so large a house, that we cannot find it." This is the proceeding with regard to the manner of the first treatment of these unfortunate women. I will read to your Lordships a letter of Mr. Middleton to Captain Leonard Jaques, commanding at Fyzabad; 18th March, 1782:—

Demand on the Begums to surrender their house.

Further severities ordered by Mr. Middleton.

"Sir,—I have received your letter of the 13th instant. The two prisoners, Behar and Jewar Ali Khan, having violated their written solemn engagement with me for the payment of the balance due to the honourable Company, on the Nabob's assignments, accepted by them, and declining giving me any satisfactory assurance on that head, I am under the disagreeable necessity of recurring to severities to enforce the said payment. This is, therefore, to desire that you immediately cause them to be put in irons and kept so, until I shall arrive at Fyzabad to take further measures as may be necessary."

Remonstrances of Captain Jaques.

There is the answer of Captain Jaques to Mr. Middleton; April 23d 1782; in the same page:—

"Sir,—Allow me the honour of informing you that the place the prisoners Behar Ali Khan and Jewar Ali Khan are confined in is become very unhealthy, by the number obliged to be on duty in so confined a place, at this hot season of the year, and so situated, that no reduction can with propriety be made from their guard, it being at such a distance from the battalion."

You see what a condition they were in at that period. You see they were put in irons, in a place highly unhealthy, from the circumstances and from the irons. You will judge of that step of severity, which is what I call the aggravated severity; the first being what he calls "some few severities." The first severities yielded 600,000*l.* These severities were to get 60,000*l.*, the further security, as they say, for good and valid considerations.

Here is a letter from Captain Jaques to Mr. Middleton;

page 857 of the printed Minutes; dated Palace, Fyzabad, May 18th, 1782 :— 7 June 1794.

"Sir,—The prisoners Behar and Jewar Ali Khan, who seem to be very sickly, have requested their irons might be taken off for a few days, that they might take medicine, and walk about the garden of the place where they are confined, to assist the medicine in its operation. Now, as I am sure they would be as secure without their irons as with them, I think it my duty to inform you of this request, and desire to know your pleasure concerning it.

"(Signed) Leonard Jaques."

Rejoinder of Mr. Middleton.

Mr. Middleton's answer to Captain Jaques is on the 22d of May, 1782:—

"I am sorry it is not in my power to comply with your proposal of easing the prisoners for a few days of their fetters. Much as my humanity may be touched by their sufferings, I should think it inexpedient to afford them any alleviation while they persist in a breach of their contract with me; and indeed no indulgence could be shown them without the authority of the Nabob, who, instead of consenting to moderate the rigours of their situation, would be most willing to multiply them.

"(Signed) Nathaniel Middleton."

Statement of Major Gilpin.

Letter from Major Gilpin to Mr. Middleton; June the 5th 1782; page 871 :—

"Sir,—Agreeable to your instructions I went to the prisoners, Behar and Jewar Ali Khan, accompanied by Hoolas Roi, who read the papers respecting the balance now due, &c., &c.

"In general terms, they expressed concern at not being able to discharge the same without the assistance of the Begum, and requested indulgence to send a message to her on that subject, and in the evening they would give an answer.

"I went at the time appointed for the answer, but did not receive a satisfactory one. In consequence of which I desired them to be ready at the shortest notice to proceed to Lucknow, and explained to them every particular contained in your letter of the first instant respecting them.

"Yesterday morning I sent for Lataffit Ali Khan, and desired him to go to the Bow Begum and deliver the substance of my instructions to her; which he did, and returned with the enclosed letter from her. From some circumstances which I have heard to-day, I am hopeful the prisoners will soon think seriously of their removal, and pay the balance rather than submit themselves to an inconvenient journey to Lucknow."

Refusal of Mr. Middleton to communicate with the Begum.

To Major Gilpin, commanding at Fyzabad, from Mr. Middleton; page 872 :—

"Sir,—I have been favoured with your letter of the fifth instant, informing me of the steps you had taken in consequence of my instructions of the first, and covering a letter from the Bow Begum, which is so unsatisfactory that I cannot think of returning an answer to it. Indeed, as all correspondence between the Begum and me has long been stopped, I beg you will be pleased to inform her that I by no means wish to resume it, or to maintain any friendly intercourse with her, until she has made good my claim upon her for the balance due,

7 JUNE 1794.
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"I have now, in conformity to my former instructions, to desire that the two prisoners, Behar and Jewar Ali Khan, may be immediately sent under a sufficient guard to Lucknow; unless, upon your imparting to them this intimation, either they or the Begums should actually pay the balance, or give you such assurances of security for the assets to be immediately forthcoming as you think can be relied upon; in which case you will of course suspend the execution of this order."

Letters of Mr. Johnson insisting on the discharge in full of the balance.

Mr. Richard Johnson to Major Gilpin; Lucknow, 24th June 1782; page 876:—

"Sir,—I have received the honour of your letter of the 20th. The prisoners arrived here this morning, Lieutenant Crow has delivered them over to Captain Waugh, and returns to you in a day or two. I think their hint to you a very good one, and worth improving upon. Was the Bow Begum to think that she must go to Allahabad, or any other place, while her palace is searched for the hidden treasure of the late Vizier, it might go further than any other step that can be immediately taken towards procuring payment of the balance outstanding.

"The prisoners are to be threatened with severities to-morrow, to make them discover where the balance may be procurable; the fear of which may possibly have a good effect, and the apprehensions of the Begum lest they should discover the hidden treasure may induce her to make you tenders of payment, which you may give any reasonable encouragement to promote that may occur to you.

"The jaghire cannot be released to her on any other terms, nor even to the Nabob, until the five lacks for which it was granted be paid up. And the prisoners must also be detained until the full fifty lacks be liquidated. Consequently nothing but the fear of an increase of demand, upon breach of the first engagement on her part, will induce her to prompt payment."

Letter from Mr. Richard Johnson to the commanding officer of the guard; Lucknow, 23d July, 1782; page 878:—

"Sir,—Some violent demands having been made for the release of the prisoners, it is necessary that every possible precaution be taken for their security. You will, therefore, be pleased to be very strict in guarding them; and I herewith send another pair of fetters to be added to those now upon the prisoners."

Reply of Mr. Allen.

Letter from Robert Steere Allen to Richard Johnson, Esq., acting Resident; Lucknow, 23d July, 1782; page 879:—

"Sir,—I have received your instructions and ordered the fetters to be added, but they are by much too small for their feet. The utmost regard shall be paid to the security of the prisoners. I have sent back the fetters that you may have them altered if you think proper."

Letter of Mr. Johnson authorising the infliction of corporal punishment on the eunuchs.

Letter from Mr. Johnson to the officer commanding the guard; Lucknow, 28th June, 1782; page 878:—

"Sir,—The Nabob having determined to inflict corporal punishment upon the prisoners under your guard, this is to desire that his officers, when they shall come, may have free access to the prisoners, and be permitted to do with them as they shall see proper; only taking care that they leave them always under your charge."

I will now trouble your Lordships with the following passages from Mr. Holt's evidence; page 395:— Evidence of Mr. Holt.

"Did you ever see the two ministers of the Begums?"—"I saw them brought into Lucknow." "In what situation were they when you saw them brought into Lucknow?"—"They were brought in their palanquins, attended by a guard of sepoys." "Under whose command were the sepoys?"—"That they were brought in by?" "Yes."—"I do not recollect." "Were those sepoys that brought in the prisoners part of the Nabob's army, or were they any British troops?"—"To the best of my recollection they were detached from a regiment then stationed at Fyzabad." "In whose service was that regiment?"—"In the Company's."

In the same page:—

"Were they imprisoned in any house near that in which you resided?"—"They were imprisoned immediately under the window of the house in which I resided—close to it." "Did you, or did you not, ever see any preparation made for corporal punishment?"—"I saw something of a scaffolding." For what purpose?"—"I heard it was for the purpose of tying them up." "Whose prisoners did you consider these men to be?"—"I considered them as prisoners of the Resident. They were close to his house, and under an European officer."

Your Lordships see now the whole process, except one dreadful part of it, which was the threatening to send them to the castle at Chunar. After all these cruelties, after all these menaces of further cruelties, after erecting a scaffold for actually exercising the last degree of criminal punishment, namely, by whipping these miserable persons in public—or one of them—you see everything done but the execution. There is a decorum in the stage that has murders, executions, whippings and cruelties, performed behind the scenes. In the evidence before your Lordships, our inability has secured that part of the decorum; but your Lordships know all the rest. I know, as well as a man can know a thing, from a document which I cannot produce in evidence here—but I have it in the handwriting of the Resident, Mr. Bristow—that Behar Ali Khan was actually scourged in that manner that we speak of. That your Lordships must necessarily believe. If you saw the scaffold erecting for the purpose, would you believe that the scourging did not follow? We thought to get it from Mr. Middleton. I had it in writing in the man's hand. I asked him the question. He refused to answer it, because he thought it might criminate himself, and criminate us all. It does so! Public scourging of Behar Ali Khan.

This is done in the name of the Nawab. If the Nawab is the person claiming his father's effects, if the Nawab is the person vindicating a rebellion against himself upon his

7 June 1794. nearest relations, why was he not himself the person that took a single step in this matter? Why do we see nothing but his abused name in it? We see no order under his own hand in it. We see all the orders by cool Mr. Middleton, by the outrageous Mr. Johnson, by all that gang of persons that the prisoner has used, to disgrace the British name. Who are the officers that stormed their fort? Who put on the irons? Who sent them? Who multiplied them? They are all English. Where is the Nawab, whose name is used? There is not an appearance of a minister of his in the whole transaction; but all English. And we, as Englishmen, call for punishment upon those who have thus degraded and dishonoured the English name. We do not use torture or cruelties even for the greatest crimes, but have banished them from our courts of justice. We never suffer them in any case. Yet those men, in order to get men to break their most sacred trust, inflict tortures upon them; and they are tossed from pillar to post, from dungeon to dungeon, from one place of punishment to another, and punished in this manner,—all for an extorted bond; for they could owe no money: they did owe none. But to get this miserable balance, after having received from these ladies 500,000*l.* in money, and 70,000*l.* a year in land, after having got this enormous plunder, not satisfied till they secured the last farthing they could get, they put usury and extortion upon tyranny and oppression, to aggravate it; and then scourged and tormented them; drove them from post to post; and then threatened to send these miserable prisoners to Chunar. That succeeded at last.

Real perpetrators of the atrocities.

Threat to imprison the eunuchs in the fort of Chunar.

They who had resisted irons, who had been, as the Begums say, refused food and water, stowed in an unwholesome, stinking, pestilential, prison—they withstood everything, till the fort of Chunar was mentioned to them; and then they failed. But why the fort of Chunar? If it was the Nawab's rights, if it was the Nawab's vindication, why carried to Chunar? It is not in his dominions. Chunar is a British fort. To name a British fort, in these circumstances, is to name everything that is most horrible in tyranny. It appeared so to them to be: and therefore you see before you every part of these cruelties, unknown, I will venture to say, in the history of India, exercised upon persons of the first rank—in such rank as we have nothing parallel to. The women could not be brought forward and scourged; but their ministers were brought forward and

scourged, till they gave all their clothes, all the ornaments of their persons, all their jewels, all the memorials of husbands, fathers, all the ornaments of dignity; [all] were delivered, and valued by merchants at 40,000*l.*; and there was 5,000*l.* in money or thereabouts; so that there remained in reality but a mere nothing. There remained in reality nothing worth mentioning, even in the calculations of extortion and usury. There remained about 5,000*l.*, or some such thing. 7 June 1794.

Alleged payment of the money to Hyder Beg Khan.

Then what became of all this money? Why, when you examine these witnesses here, they tell you it was paid to Hyder Beg Khan. They themselves did receive the money in tale, at their own assay table. Yet, when the goods are brought to sale, they shrink from the thing, and say, it was Hyder Beg Khan had the things and sold them. Where is Hyder Beg Khan's receipt? No; the Begums say—and the thing speaks for itself—they say, the gold and jewels coming from them lost their value; that part of the goods were spoilt, being kept long unsold in damp and bad warehouses. The rest of the goods were sold, as thieves sell their spoil. They were themselves the actors in it, but when they are called to account, then they substitute Hyder Beg Khan, a man that is gone and dead, in their place; and you hear nothing more of them. This would have been, one should think, enough.

Prolonged imprisonment of the eunuchs.

Now there opens another scene. They kept them notwithstanding, for this odd 5,000*l.*, confined for a twelvemonth;—not as this prisoner before your Lordships, who thinks to thrust his sore leg into your face every day. But these persons, who were thus cruelly put into prison, are the persons that I feel for. It is their dungeon: it is their unrevenged wrongs for so long a time [that move me].* These innocent, miserable, unhappy, men, who were guilty of no offence but fidelity to their mistresses, the first women in Asia, and in order to vex and torture whom, in their persons, [these cruelties were exercised],—these are the persons for whom I feel; and not for the miserable sore leg, or whining cant, of this prisoner before you, and who has been the author of all these wrongs; to whom if you transfer any of the compassion you owe to these women, you do wrong, and violate compassion. Think of these irons! Has [not] this criminal, who put on these irons, been without one iron?

* Revised copy.

7 JUNE 1794. Has he been threatened with torture? locked up without food and water? Have they aggravated his sufferings, as the sufferings of these poor men were aggravated? What punishment has been given? and what sufficiently due to such crimes can be given?

Suppression of Mr. Bristow's report.

When Mr. Bristow went up, he wrote to Mr. Hastings and informed him that severities could do no more; that imprisonments, menaces, could get no more money. I believe not; for I doubt much whether any more was to be got. But, whether there was or no, the act of extortion, fortified by the act of tyranny of every name and species, failed; and therefore Mr. Bristow lets them out, without any warrant from Mr. Hastings. Accordingly, Mr. Hastings, after having received this letter from Mr. Bristow,—in which he gives Mr. Hastings a credit he never wished to receive for his humanity in having released them; which he did without name or authority, and for which this Resident, Mr. Bristow, I suppose, was afterwards obliquely punished,—gets that very Council to order these very severities to be continued, till the last farthing was paid; suppressing that letter of Mr. Bristow, by which he declares that severities could do nothing more in exacting further payments.

The Governor General lays before the Board the following letters from Mr. Bristow to him, dated the 12th of December; and enclosures, 30th December, 4th and 31st of March, and 8th of April; [page 901]:—

"The battalion at Fyzabad is recalled, and my letter to the Board of the 1st instant has explained my conduct to the Begum. The letter I addressed her, a translation of which I beg leave to enclose (No. 2), was with a view of convincing her that you readily assented to her being freed from the restraints which had been imposed upon her, and that your acquiescence in her sufferings was a measure of necessity to which you were forced by her extraordinary conduct. I wished to make it appear this was a matter on which you directed me to consult the Vizier's pleasure, that it might be known you were the spring from whence she was restored to her dignity and consequence."

The date of this consultation is the 12th of May, 1783.

Order to Mr. Bristow to continue the severities.

"At a consultation at Fort William, 3d of March, 1783:—Agreed that the following letter be written to Mr. Bristow:—

"To Mr. John Bristow. Sir,—having received and taken into consideration the following letters from you, we shall now transmit you our sentiments and orders upon them: viz.; 23d November, 1st December, 11th ditto, 19th ditto, two letters, 20th ditto, 30th ditto, 2d January, 13th ditto, 24th ditto, 29th ditto, 30th ditto. We desire you will inform us if any and what means have been taken for recovering the balance due from the Begum at Fyzabad; and, if necessary, that you recommend it to the Vizier to enforce the most effectual means for that purpose."

My Lords, you see the fraud he has put upon the Council. He has suppressed these letters; and then he has been an instigator to them, while he had these letters in his hand, knowing that he could get nothing more by severities—he makes that blind and ignorant Council the cat's paw to demand, and he calls upon the Wazir to continue, these very severities and cruelties, or to renew them over these people. Here you see his insatiable cruelty;—that he never relaxes; that he never remits. Finding that the resources of tyranny were completely gone and exhausted, he is still willing to use them; and, for that purpose, he makes a fraudulent concealment of the utter inefficacy that had been found in any means that could be used. 7 June 1794.

Malicious motive imputed to Mr. Hastings.

But you will ask, what could make him persevere in this cruel manner, after all the objects of his avarice had been more than satiated? You will find it is this:—he had some quarrel with these women. He thinks they had done him some personal injury or other, which he does not inform you of. But, as you find, in the case of Cheyt Sing, that he considered his visit to General Clavering as some horrid outrage to him, which he never forgave, and [revenged]* to the ruin of that miserable person; so you find he has declared here, in page 367 of your Minutes, [the same malicious disposition towards the Begums, arising from some similar cause].*

After charging the Begums as he thinks fit, he says:—

His alleged quarrel with the Begums.

"I am sorry that I must in truth add, that a part of the resentment of the Begums was, as I had but too much reason to suspect, directed to myself personally. The incidents which gave rise to it are too light to be mixed with the professed subject and occasion of this detail; and, as they want the authenticity of recorded evidence, I could lay no claim to credit in my relation of them. At some period I may be induced to offer them to the world, my ultimate and unerring judges both of that and of every other trait in my political character."

My Lords, you have an anecdote here handed to you which is the key of a great part of this transaction. He conceived some deep and desperate revenge for some injury or affront, of some kind or other, that he thought he had received from these people. He accuses them of a personal quarrel with himself; and yet has not the honour or honesty to tell you what it was. In considering what that was, that could induce them to such a personal resentment to him as to ruin themselves and their country upon this supposed rebellion, you have it here. He says,

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* Revised copy.

7 June 1794. some time or other he will tell it to the world. Why has he not told his Counsel, and authorised them to tell the story of what he considers as a personal resentment to himself? He brings it as a make-weight. He winds it up at last, that he had too much reason to suspect he himself was one of the objects of this rebellion. If that is true, consider what is doing now. You do not know what the cause was: but, supposing that a rebellion, which had shaken the British power to the foundation, had had its rise in some wicked act of this man, who had offended these women and made them, as he says, his mortal enemies, [you will see that] you never can go so deep with this prisoner, that you do not find in every criminal act of his some other criminal act. In the lowest deep there is a lower deep. In every act of his cruelty, there is some hidden, dark, motive that he just gives you a hint of, but does not let you into the light of. [He does not disclose] the rise of the history of these unfortunate women. But, cruelly as they have suffered, dreadfully as they have been robbed, insulted as they have been in every mode of insult that could be given to such women, [all this must have been highly aggravated by coming from]* such a man as Mr. Middleton.

Insulting conduct of Mr. Middleton.

You have heard the audacious and insulting language he has held to them, his declining to correspond with them, and the mode of his doing it. There are, my Lords, things that embitter the bitterness of oppression itself. There is a style of contumely, coming from persons who the other day would have licked the dust under the feet of the lowest servants of these ladies, that must, when you see them elevated to that degree of power, have embittered their wrongs and poisoned the very cup of malice itself. These are the circumstances and the state of these women.

O! but they deserved it. They were concerned in the wicked, outrageous, rebellion for the extirpation of the British name;—first, for the means of expelling their own son; and [secondly,] to expel and exterminate the English nation out of India. Good God Almighty! my Lords, do you hear this? Do you understand that the English nation had made themselves so odious, so particularly hateful, even to women the most secluded from the world, that there is no crime, no mischief, no family destruction, through which they would not wade for our extirpation? Is this a pleasant thing? Rebellion is, in all parts of the world, undoubtedly,

* Revised copy.

considered as a great misfortune. In some countries it must be considered as a presumption of some fault in government. Nowhere is it boasted of and held up as a means of justifying a vast number of evil acts, but in ours. 7 JUNE 1794.

Character and object of the rebellion.

We have proved to you that a rebellion did exist in these provinces; that a rebellion did exist in Baraitch and Goruckpore. It was a universal insurrection of the people; an insurrection for the very extermination of the English, for the extermination of Colonel Hannay, for the extermination of Captain Gordon, for the extermination of Captain Williams, and of all the other captains and colonels exercising the office of farmer-general and sub-farmer-general in the manner that we have described. We know that there did exist in that country such a rebellion; rebellion, my Lords, against whom?—against these mild and gracious sovereigns, Colonel Hannay, Captain Gordon, Captain Williams!—an unnatural and abominable rebellion against them. For will anyone pretend to say that the Nawab himself was ever attacked by any of these rebels? No! The attacks were levelled against the English. Why? Is it because the English were sovereigns of the country, and persons against whom a rebellion could be properly and truly used? No such thing. The people rose in favour of their sovereign, against a rebellion against him—headed by Mr. Middleton, who you see usurped his authority—headed by Colonel Hannay—headed by Captain Gordon—headed by all those abominable persons exercising office under the Nawab's name, destructive to himself and his subjects. Against them there was a rebellion. Was it so unnatural a rebellion?—a rebellion against the usurped authority, which was an insurrection, if you may call it, in favour of the prince, his children and property in the country, and against a set of vile usurpers?

My Lords, I shall very soon close this part; because, indeed, it is a thing which I wish to leave with strong impression upon your Lordships' memories; and nothing can aggravate it. Before I enter into one word upon dissipating, as I hope I shall do, and following up all the miserable stuff they have given by way of defence, I shall only say that that miserable defence is a heavy aggravation of the crime; but before I enter upon the principle and the means of the defence, which I hope will not take a great deal of time, I shall just leave it upon your Lordships with this impression: —what was the reason of it? Was it the Nawab's busi-

7 JUNE 1794. ness, if the English only were concerned in it? How comes it that he did not resent it? No; it was the English; and consequently the insurrection, whatever it was, was an insurrection against the English. We shall prove, beyond a doubt, that the Begums had nothing to do with it. But there was a rebellion; a rebellion not against the Nawab, but in favour of the lawful prince of the country, against the usurpers of his authority and the destroyers of the country. There is but one thing, before I enter into any detail, that I wish your Lordships to consider before you go. Here Mr. Hastings is under this very dreadful situation:—he has charged with a rebellion these women. He has charged them with a war against their son, for the purpose of exterminating the English. Look at the thing; consider all the circumstances of it; and ask yourselves whether this is not a charge, not only so grossly improbable, but so perfectly impossible, that there is no evidence which can make it even plausible?

Innocence of the Begums.

Nature of the evidence brought against them.

On the other hand, my Lords, consider what the evidence is; and then you will ask, whether such evidence could make the most probable cause in the least degree more probable? My Lords, the evidence is neither more nor less than almost all the people who have had a share in exciting that rebellion, who have been the authors of usurpation, whom Mr. Hastings has described in that manner, and who, to justify themselves in the cruel acts that have raised this rebellion, have thrown it upon these unhappy women.

But where is the Nawab, against whom is the rebellion? Was it ever insinuated to him that his mother had made this rebellion against him? Where did he charge it?—where did he hear it charged?—to whom?—when? Was the proof shown to him upon any occasion—to him who must be the most anxious to suppress and prevent it, as it was against himself? Not one word of that rebellion has ever come out of his mouth! Not one person produced to you, to show that they informed him of the existence of such a rebellion!

No mention of the charge made to the Nawab or to the Begums.

Then the persons who are rebels are the mother and the grandmother of the Nawab; and yet was there ever a hint given to him by Mr. Middleton or other people, that they were charged with such a thing? There was a hint they got at obliquely; but I shall tell your Lordships that neither the person against whom the rebellion is supposed to exist, nor the persons who were making it, ever got at one word of this.

I defy them to show one word ever uttered by them, to show that they were ever supposed to be concerned in the rebellion. So that neither the principal actor nor the first and greatest instrument ever heard of the charge from the persons concerned in it. Neither the person against whom the rebellion was made, nor the persons who were charged with it, nor the secondary agents, ever heard of it. There was nothing but —"give me the money—irons—new irons—new imprisonment," and, at last, "the castle of Chunar!"—But not one word of charge made, much less of proof given, to any of the parties concerned. And here, at present, my Lords, I beg leave to pause upon this occasion, and to leave upon your minds the impression—first, of the wrong that was done, the violence, the robbery; and then, the pretences upon which it was made, both civil and criminal. 7 JUNE 1794

CONTINUATION OF THE SPEECH OF THE RT. HON. EDMUND BURKE, MANAGER FOR THE HOUSE OF COMMONS, IN GENERAL REPLY ON THE SEVERAL CHARGES; 11 JUNE, 1794.

11 JUNE 1794.

MY LORDS,—Your Lordships recollect that circumstances obliged us to close at a most interesting period of this Charge, at least of the observations upon it. We closed at that awful moment when we found the first women of that country pillaged of all that they had—both their landed property and their monied property. We closed at the point when we recited to you the false pretences under which they were supposed to be pillaged, namely, the false pretence that it was the work of the Nawab; that they added to and aggravated their crimes by forcing the son to violate the property of his mother,—a crime everywhere—a portentous and enormous crime. There we closed, with giving you some little view of the horrible and iniquitous proceedings upon which this was done. I am forced to make some sort of apology for entering at all into the refutation of these iniquitous pretences.

My honourable fellow Manager who preceded me in this business did what he ought to do, considering it as evidence; he treated it with proper contempt. And I, who consider it indeed to be as little evidence as he does, and as little a defence as he does, consider it in another and in a new light; namely, as a heavy aggravation of crimes in the prisoner at the bar, as a matter that will let you into the whole spirit of his government, and will warn your Lordships against being taken in by deceits that would, if it were possible for you to be taken in by them, render you unfit to be judges of the smallest matters, civil or criminal, in the world.

Clandestine correspondence carried on by Mr. Hastings.

The first thing I shall beg to mention to your Lordships upon that head is this:—the whole of the proceedings, from beginning to end, has been a mystery of iniquity. In no part of it have the orders and the welfare of the Company been observed; but the whole has been carried on in a secret and clandestine manner, and by this minister who was the least fit to carry on any such clandestine business.

Therefore I shall beg leave, first, to read the manner in which this correspondence ought to be carried on—the manner in which such a business ought to be treated—and then I shall state the manner in which it was treated. Therefore your Lordships will hear read the orders given concerning the correspondence of every kind with the country powers. Your Lordships will remember the period in which these orders were issued; namely, the period in which the Act [passed] for the better direction of the servants of the Company,—the Act of Parliament in consequence immediately of which Mr. Hastings was appointed Governor General;—and, therefore, the court of Directors being ordered to prepare orders and instructions which Mr. Hastings was ordered to comply with, you will see what these instructions and orders were, and in what manner he complied with them. 11 JUNE 1794.

"Extract of general instructions to the Governor General and Council, 29th of March 1794; beginning at the second paragraph; [printed Minutes, page 535]:—

"We direct that you assemble in Council twice every week, and that all the members be duly summoned; that the correspondence with the princes or country powers in India be carried on by the Governor General only, but that all letters sent by him be first approved in Council, and that he lay before the Council at their next meeting all letters received by him in the course of such correspondence, for their information. We likewise direct that a copy of such parts of the country correspondence be communicated to our Board of Trade (to be constituted as herein hereafter mentioned), as may any ways relate to the business of their department." Orders of the Directors respecting correspondence with the native powers.

You will find two circumstances in this business: first, that after the Board had been regularly called, the Persian correspondence, to be kept by the Governor only, shall be communicated to them; and that he shall write no answer to any part of business until he have previously consulted the Council upon it. Here is the law of the land—a direction given in pursuance of an Act of Parliament. Your Lordships will ask how Mr. Hastings comported himself with regard to that Act; and how he came—for we charge it as a substantive crime, independent of the criminal presumptions that arise from it—that he violated an Act of Parliament, putting a positive direct instruction upon him in the manner in which he was to comport himself with regard to the native powers.

My Lords, we contend strongly that all the positive rules and injunctions of the law, though they are merely positive, and do not contain any moral matter, but merely matters of

11 JUNE 1794.

Importance of specific laws.

regulation, shall be strictly observed: and the reason is this, and a serious reason it is. Tyranny, oppression, corruption, peculation and bribery, are crimes in their nature so secret that we can hardly ever get to the proof of them; but there are rules, orders and regulations, of a positive nature, meant to prevent the perpetration of these crimes; and, therefore, you ought to presume that, whenever these rules and laws are broken, these crimes are intended to be committed. You have no other way of securing against unknown crimes which you cannot prove but by enforcing positive laws, the breach of which is plain, open and direct. You cannot prove bribery in an hundred cases: you cannot prove smuggling in an hundred cases. It is the spirit of the laws. But you can prove whether the proper documents, proper cockets, proper entries in regular offices, are performed or not; by which means you lock the door against bribery; you lock the door against corruption, against smuggling and contraband trade. But how? by falling upon and attacking the offence? No; by falling upon and attacking the [breach of the] regulation; showing that the man broke that regulation, from which you presume that he broke it fraudulently. And you punish the man, not for the crime the regulation meant to prevent, but you punish him for the breach of the regulation; or otherwise all punishment for fraud, bribery and corruption, is gone. The whole of the government depends upon it. All government, to be preserved in respect to authority, must be sincere in its declarations: it must be authentic in its acts. Whenever in any matter of money there is a mystery, you must presume a fraud. Whenever in any matter of money there is a concealment, you must presume upon misconduct. You must, therefore, attach to the rule.

Secrecy observed by Mr. Hastings with respect to his proceedings in Oude.

I have, therefore, at the beginning of this whole transaction, put before you that rule which he violated; and that rule we, the Commons, call upon your Lordships to enforce and to avenge the breach of. You have seen the consequences of breaking that rule. We have charged, and do charge, that it is a heavy violation of that business, that, instead of consulting the Council, instead of laying the whole correspondence before them, instead of consulting them upon his answers, he went into the country and took His Majesty's chief justice along with him, and that justice was made the instrument of all these wrongs, violences, robberies and concealments.

It is an extraordinary circumstance, but I must state it to your Lordships, to show you in what a horrible manner your laws have been trampled upon and despised that are made to prevent these proceedings;—we are to tell you how we came to know them. We did not find one word of all these proceedings upon any public record whatever. I will tell your Lordships the manner in which they came to our knowledge. It is not upon the records, therefore we supply by a faithful narrative to you the means by which we came at these things; and then you may judge, first, of what nature these things are which he thinks it so necessary to conceal, and, then, what the nature of that crime is for which all the orders of the Company are violated. 11 June 1794.

Receipt of anonymous information by the Managers.

When we were examining the violences he offered the Begum, the breaches of the treaty, there came into my hands an anonymous letter, containing all the matter you had last day stated to you. It came anonymously. I did not know from what quarter it came. I do not know with certainty at this hour from what quarter it came. Not certainly. I conjecture, and that is all I know of it. And all these letters, all that correspondence, a great part of the correspondence of Mr. Middleton, all the cruelties with regard to the Begums' eunuchs, in order to extort money, came to me only in that oblique manner.

Consequent examination of Major Gilpin and Mr. Middleton.

When we had got it, we found the names of Major Gilpin and several others to this letter. Upon which we sent for Major Gilpin and Mr. Middleton; and we had a strong fox smell of a Sir Elijah Impey, that his brush and [crime] † had left after him along the place. We found him and traced him by that scent. We went to the hole, and there we found as many of the wolves as he thought proper to leave there. We got Major Gilpin. Major Gilpin produced the correspondence. We applied to Mr. Middleton, and we found all this torn out of his book, but having [come at it by means of an anonymous communication, we subsequently]* proved and established it, and confirmed it, in the manner we have done before your Lordships. Here, then, you have come by it; and, but for an anonymous letter, the whole of the most essential correspondence with regard to the interests and justice of Great Britain would have been concealed by this wicked man, by a violation of a positive law, if mere accident had not enabled us to trace this iniquity to its

* Revised copy.

† Revised copy. "Urine" in MS.

11 June 1794. source. Therefore to-day I begin by stating to your Lordships, and calling upon your justice to punish him for, the violation of this just, proper, rule upon this occasion. And now, having done so, we come to the pretext.

Agents employed by Mr. Hastings.

We have stated the instruments by which this wickedness was done. It was by Mr. Middleton and Mr. Johnson, persons sent as nothing else but as ambassadors, respectfully to represent the interests of the country at the court of an independent prince; all whose powers they usurped by [means of] British officers in his service and receiving his pay, who were used to enslave his person, and to enable him to rob and to force him to rob his kindred. This, by an English chief justice, sent by Act of Parliament to represent the sovereign majesty of the Crown of England, to be a restraint upon all the misdemeanours and misconduct of the Company's servants! These were the instruments by which this man did this work. First, we have proved it an instrument of secrecy in Mr. Larkins' books, not upon the Company's records as it ought to be. Next, we have shown you what unnatural and wicked instruments had been made use of. We have shown you the whole system of fraud and prevarication upon which it is founded.

Now we go to the pretences upon which this horrid and nefarious act is justified; which I do not speak of to you for the sake of refuting things that want no refutation, but to show you the spirit of the whole proceeding, and to make it appear to your Lordships, as I trust it will, that the wicked act done there is not half so bad as the wicked defence that is made here. The first thing, after he had sent Sir Elijah Impey, as your Lordships will remember—as we have proved his having sent him—with orders, first, to seize upon the Begums' treasures, he sent him another budget of instructions—which, we find, came out of their various trunks —another budget of instructions for him to give to Mr. Middleton—secret instructions to forward this business. But, that his office of chief justice should not be dormant, he was to seek for affidavits or written testimony of persons, to convict these women of a design of atrociously revolting against their son and deposing him from the government, for the purpose of getting rid of the English inhabitants in that country. This was the accusation; and the evidence to support it Sir Elijah Impey was sent to collect.

Collection of affidavits by Sir Elijah Impey.

My Lords, I must observe to your Lordships, first, that there is no act of violence, merely as an act of violence, that

will not in some degree be borne; because an act of violence infers no principle; it infers nothing but a momentary impulse of a bad mind, proceeding without law or justice to the execution of its object. At the same time that it pays no regard to law, it does not violate it: it does not debauch it: it does not bring it to its purposes. The law disregarded still exists; and hope still exists in the people that, when the law shall be resorted to, that violence will cease, that wrongs will be redressed. But whenever the law itself is debauched, and comes to enter into a corrupt coalition with violence, robbery and wrong, then all hope is gone; and then it is not only private persons that suffer an injury from violence, but the law itself is destroyed and corrupted, and becomes the worst instrument of wrong, violence and corruption; and is accordingly much more odious to mankind and an infinite aggravation of every injury they suffer. 11 JUNE 1794.

Secrecy and illegality of his proceedings.

Accordingly, we have in our Charge strongly reprobated Sir Elijah Impey going to take such affidavits. "Oh! but a judge may take an affidavit in his chamber privately, and he may take an affidavit, though not exactly in the place of his jurisdiction, to authenticate a bond or the like." We are not to be cheated by words. It is not the sweepings of dirty shreds of worn out paint and ragged parchments of Westminster Hall that shall serve us in place of the justice upon which the world stands. Affidavits! we know that, in the language of our courts, affidavits do not signify a body of evidence to sustain a criminal charge, but are generally relative to matter in process collateral to the charge, which, not coming before the jury, are made known to the judge by way of affidavit.

But was it ever heard, or will it be borne, that a person exercising a judicial office under His Majesty should walk out beyond the sphere of all his jurisdiction, where he was placed and fixed for the protection of the natives, and should march to such a place as Lucknow in order to take depositions to criminate persons in that country, without so much as letting them know one article in these depositions? These depositions were made to criminate—were meant to justify a forfeiture; and they are not in the nature of those voluntary affidavits which, whether made within jurisdiction or without, publicly or privately, signify comparatively nothing to the cause. I do not mean to say that any process of any court has not its weight when the matter is within it. When in the ordinary course of proceedings, God forbid that

11 JUNE 1794. they should not go on, and be considered to have their just weight; but God forbid that they should have any other!

This chief justice, then, comes to Lucknow, where he holds this court—such court as it was. He was there to authenticate by name:—he, the English chief justice, holds his court by night. He holds his court in darkness and secrecy; and he holds his court in Fyzabad, in the capital of the country of the Nawab of Oude, unknown to the Nawab of Oude. Without the least knowledge of, or notice given to him, of what he was proceeding about, he holds it in the house of Colonel Morgan, his pensioner upon the occasion; and the person assisting is Mr. Middleton, who likewise is a pensioner, as we prove to you, a monopoliser of trade, and a person who received much the major part of his emoluments from his hands.

In that clandestine manner, in [the Nawab's] own house, in his own capital city, in the house of his dependant and pensioner, Colonel Morgan, with no other witness that we know of except Mr. Middleton, was this iniquitous, dark, procedure held, to criminate the mother of the Nawab. We see a scene of dark, mysterious, contrivance; let us now see what is brought out in the face of open day. It brought out this body of attestations that you have seen on the record before you. It brought them out—where? There? No! they were brought out at Calcutta. They were brought out in another place, but never communicated to the Nawab. He never knew anything of the matter. Now let us see what they were. Your Lordships will remember that this thing, which they bring by way of evidence, I do not mention as imputation of weak, improper and insufficient, evidence, but as proof of crimes, and a systematic design to ruin people by force there and chicane here. These are the principles upon which I am going to talk to you upon this abominable subject; of which I am sorry to say I have no words sufficient to express my horror. No words can express it; nor anything but the severest of your Lordships' judgments can properly decide upon it, and find a proper, adequate, expression of it. It is not to be expressed in words; it must be expressed in punishment.

Transmission of the affidavits to Calcutta.

Character of the deponents.

The evidence collected there was in this body of affidavits. Having stated before whom they were made, I shall state who they were that made them. They were every one of them those persons—every one without exception—who knew that they were accused of robbing and ruining the

whole country, and who we know were accused in the mass by Mr. Hastings;—nothing less than the body of those English officers who were assuming and usurping the office of farmers-general, or officers in the Nawab's government, [and whose pillage and peculations had]* raised a universal revolt of the whole kingdom against themselves. They are here brought in a mass to clear themselves of the effects of their own iniquities by criminating other persons in this private and clandestine manner. 11 June 1794.

Nature of the evidence.

Suppose the witnesses were good for anything; suppose the least attention was to be paid them; the matter of their testimony, as they state it, in one respect is very possible, in the other respect very probable. The very first matter they state—all these witnesses universally, without the exception of one of them; not one here and there—and we desire and beg your Lordships to resort to them—does not criminate these Begums only; it criminates Saadat Ali Khan, the brother of the Nawab. Their name is never mentioned in the crimination but along with him. Much the greater part of them criminate the Nawab himself.

Its improbility in respect of the charges against the Begums.

Now, my Lords, I will say that the matter of these affidavits, forgetting who the persons were, is not impossible. It is not impossible that Saadat Ali Khan, which is the main point and the stress of the thing—that Saadat Ali, being a military man, a man ambitious, aspiring to greatness, should take advantage of the abuses of the English Government and the discontent of the country upon it; that he should raise a revolt against his brother. That is possible; but it is only within possibility that the mother of the Nawab should have joined with her natural son against her legitimate son. I only say that in human affairs there is a possibility of truth [in this]. She might wish to depose her legitimate son—her only legitimate son—and depose him for the sake of a bastard son whom she wanted to exalt at his expense, and to exalt, of course, the mother of that bastard son to her own wrong. I say this is grossly improbable, but I say it is not impossible.

But, my Lords, there are other affidavits, or whatever your Lordships may call them, that go much further and make the whole a probable thing; that is to say, that the Nawab himself was at the bottom of it, and that he joined

* Revised copy.

11 June 1794. with his brother and his mother to extirpate out of his dominions that horrible grievance called the English brigade officers—the English officers who were farmers-general, those that we have proved, upon Mr. Hastings' own evidence, have ruined that country. Nothing is more natural than that a man, sensible of his duty to himself and his subjects, should form a scheme to get rid of such a band of robbers, that were destroying his country and degrading and ruining his family. That is a probable thing. Then you see a whole family compact naturally accounted for; the Nawab at the head of these people, his own mother joining with her own son, and a natural brother joining with the general interest of the family. There is a possible case. But is that the case they state? No; they drop the legitimate son: they drop Saadat Ali Khan: they sink the only two persons that could give probability or possibility to this business, and throw that whole design upon these two unfortunate women.

Your Lordships see the wickedness and baseness of the contrivance of those who, first, to keep the whole in terror, accuse the whole family; and when they thought they could rob them of nothing more, "having impoverished, ruined, and undone them," find out the "secret hoards of the old ladies," and fix upon them that improbable guilt they had raised with some degree of probability upon the whole family. Do your Lordships wish to see a more black, a more scandalous and base, transaction? To sink their names, and then to bring it against two women, one of whom must be supposed to have acted without any motive that influences the human mind, and the other not without the grossest improbability! The Nawab's mother could not have acted with Saadat Ali Khan, without wanting to destroy her own legitimate son, to put a concubine above herself. I do not say that is absolutely impossible, because that is a strong word. But that she should revolt against her own son for for the purpose of bringing an absolute stranger, Cheyt Sing, to the government of the country—your Lordships will see at once the wickedness, baseness, fraud and iniquity, of such a proceeding. Your Lordships will see what an insult is offered to the Peers of Great Britain in producing such gross, scandalous and fraudulent, proceedings before you.

The first set of evidence, therefore, which they produce before their knight errant, Sir Elijah Impey, their chief justice

who wandered in search of a law adventure,—I have now laid open before your Lordships. You see the scandalous proceedings in that batch of affidavits that were in the budget of Sir Elijah Impey. I have opened that Pandora's box which we have talked of—trunks and such like. Every kind of evil comes out of it. This chief justice went up there with the death-warrant of their treasures, and, for aught he knew, the death-warrant of their persons. He went into that place, and then he becomes likewise a witness in this business. He is a witness. How? Did he know any one circumstance of the rebellion? No; he does not pretend it. But, says he, "I was advised to avoid Fyzabad, and in my travels I was obliged to go fifty miles round to avoid Fyzabad." Another chief justice would have gone fifty miles about to avoid Lucknow; for everybody knows that Lucknow was the focus and centre of corruption, extortion and peculation, and that a worse air for the lungs of a chief justice could not be found in the world than Lucknow. If his lungs wanted the benefit of pure air, he would have gone a hundred miles distant from it, as the smell of carrion and putrid corruption of every kind was there; and he would rather put himself in the focus of a rebellion than do such base and scandalous services as he did at Lucknow.

11 June 1794.

Testimony of Sir Elijah Impey.

A chief justice may go to a place where rebellion is raging; he dies a martyr to his honour and cannot help it. But a chief justice who puts himself into the focus of peculation, into the focus of bribery, into the focus of everything that is base and corrupt, and does a clandestine job there! That might kill Sir Elijah Impey, the knight errant, but the chief justice would remain pure and entire; whereas Sir Elijah Impey has escaped, and the chief justice is left to shift for himself by Mr. Hastings.

Omission of notice to the accused of the charges against them.

After mentioning the violation of the laws of hospitality, I would ask, was any notice given to the Nawab, who was immediately concerned, by him or any of Mr. Hastings' agents—was any notice given to the Begums, that any such charge was fabricated against them? Not a word! Was there to the eunuchs? Was there to Shumshire Khan? Not a word! They were all in their hands. The eunuchs were a year in irons; they were subject to the want of food and water for a part of that year. They were dragged from Fyzabad to Lucknow, and from Lucknow to Fyzabad. During all that time, was there a word mentioned to them

11 JUNE 1794. by any one person, on the part of Mr. Hastings, that they were accused of this matter? Not a word!

Then we have now submitted to your Lordships' vindictive justice this kind of defence, made by testimonies taken in that place, never communicated to the Nawab, who was supposed to be the object of the rebellion, never communicated to Saadat Ali, who was charged and implicated in this rebellion, never communicated to the Begums, who are supposed to be the movers in this atrocious rebellion, never communicated to the eunuchs, who must have been the principal actors in it, never communicated to Shumshire Khan, one of their prisoners, and who is particularly charged with a part of it. This never appears there. And therefore I call for your Lordships' condemnation, not only upon the proceeding itself, but upon this most abominable and wicked mode of defence, by which everything in justice has been violated.

Well, then, as to the second part of this most scandalous procedure—to criminate people in that situation, after you have resolved to take their treasures in that private and clandestine manner. The next question we will ask is, can you bear such a thing as this? Would you have borne it in the case of Mr. Hastings? Was it not asked by a person of great and respectable authority in the kingdom and in this House, when we were going to produce evidence against Mr. Hastings—we do not say whether we offered to produce it properly or improperly; that is a matter of another consideration;—but we were asked:—"Was it communicated to Mr. Hastings? Did he know of it? Had he any opportunity of cross examining it?" "No." "Reject that evidence!"

Rejection by the Court of evidence against Mr. Hastings.

Now I say to your Lordships, in the same way, deal as justly with those Begums as you deal justly to Mr. Hastings. Do not keep two weights and measures for different people upon the same cause. You would not suffer such evidence to be produced against him: you will not suffer such evidence to be produced to you in his favour and against them.

Then at last they come here to Westminster Hall. The cause is come to a solemn trial; and we expect other witnesses and other means of proof. My Lords, the persons who are brought to us are, almost all of them, the very same persons who have made these affidavits; but with a most material difference. At your Lordships' bar, they sunk all those parts of their affidavits which criminated the Nawab, which criminated Saadat Ali, and brought only what was

Forfeiture of credit by the witnesses for the defence.

convenient to the cause of the Begums; and we were obliged, by a cross examination, to force and to squeeze out of them the disavowal of what they had said upon that occasion, or else they never would have discovered it. Such evidence we leave to the condemnation of the world. We say, first, that they are the persons who were to profit by their own wrong. We say, they are the persons who had seven months arrears paid to them out of the money of these unfortunate ladies. We say, they are the persons who, to justify the revolt which they had caused in the country by their robbery, charge their guilt upon other persons. Therefore their credit is gone. But, if it was not gone, Mr. Hastings has put an end to it by telling you that there is not one of them that is to be credited upon his oath—no, not in a court-martial; nor can be got, where a question of peculation is tried, to do other than acquit the party. He has produced to you the horrible state of the whole service. Your Lordships have it fresh in your memories and ringing in your ears. What you have heard you have heard produced by Mr. Hastings, concerning the misdemeanour of all these soldiers—misdemeanours of the very kind which we state—and who ought not, therefore, to be listened to for a moment. And I say it must be considered as an aggravation of the prisoner's crime, to bring the instruments of his guilt, the persons whom he has complained of as ruining and destroying that country, whom he engaged, at the Nawab's desire, in the treaty of Chunar, to carry out of the country as a nuisance to it—to bring these people here, nine thousand miles distant from these unfortunate women, where they have neither attorney nor agent who can from local knowledge cross examine them: he has the audacity to bring these people here; and in what manner they comport themselves, when they come here, your Lordships have seen.

11 June 1794.

General corruption imputed to them by Mr. Hastings himself.

There is one of them we cannot pass by; that is Captain Gordon. He appears here as an evidence to criminate the Begums. How? By rumours and hearsays. There is not any other person, any other matter, to criminate them, but that they heard some person say that the Begums encouraged them;—always coupling them with Saadat Ali Khan; sometimes with the Nawab, because there might have been a probability [for their charge]* in the affairs of others with

Case of Capt. Gordon.

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* Revised copy.

11 June 1794. Saadat Ali which, though impossible [with regard to the Begums],* they think would criminate him. But they sunk all this, and just as much as they thought proper. But Captain Gordon is to give a different account of the proceedings.

Captain Gordon was one of Colonel Hannay's under farmers. He was hunted out of the country and, as she says, pursued by a thousand of the zamindars, for robbing the whole country. This woman receives, from respect to the British name—that name which still guaranteed to her her possessions—she receives this Captain Gordon and Captain Williams with every mark of kindness, hospitality and protection, that could be given them. She conveys them from the borders of the city of Fyzabad, and from Fyzabad, her capital city, supposed to be the nest of her rebellion, so on to their destination; and there they are safe. They both write her letters full of expressions of gratitude and kindness for the services that they had received. They then pass on to Lucknow, to Sir Elijah Impey; and there they sink every word of any kindness, of any service or protection that they had received, or any acknowledgment that they had ever made of it. They sink this: not a word appears in the affidavits!

Disclosure of Major Gilpin.

How did we come by the knowledge of it? Why, Major Gilpin was examined, in the course of these proceedings, with regard to these unfortunate ladies. We put it in the Charge from the papers that we hold in our hands. Mr. Hastings confessed the fact; and Mr. Middleton endeavoured to slur it, but could not completely do it. But we have got them, and they are in evidence before your Lordships. You have got these testimonials, in this manner, [in favour of]* these women; and, by the same means, their letters accusing these persons are come. And here they come with their recriminatory accusation. Why did they not make it at Lucknow? Why did not Mr. Hastings, when Mr. Middleton had such papers for him in his hands—why did not Mr. Hastings get some explanation in India made of it, when he saw the affidavits of these men? I will read your Lordships the letter, that you may not only see but feel the iniquity of this business. I wish your Lordships to understand that we are commenting upon documents; not opening now a matter to be proved, but commenting upon matters

* Revised copy.

that we have proved, and that are in evidence before your Lordships:— 11 JUNE 1794.

"Letter from the mother of the Vizier to Mr. Hastings, received the 6th of January, 1782; [page 699]:— Letter of the Begum to Mr. Hastings.

"Our situation is pretty well, and your good health is prayed for. I had sent Behar Ali Khan to you; accordingly people invented a falsehood that Behar Ali Khan was gone to get the deputyship of the soubah; and some persons here were saying, 'Wherefore has she sent Behar Ali Khan to Calcutta to the Nawab Amaud-ul-Dowlah? We will never permit the affair to succeed.' And accordingly it has so happened. For they say that you also have not put your seal to the treaty; and the people here say, 'Why does the noble lady correspond with the Englishmen?' On this account, I did not send a letter at the time when you came this way. Now the state of affairs here is thus:—On the 27th Zehedja, Azoph-ul-Dowlah Behadur, without my knowledge, sent his own aumils into my jaghire. I accordingly wrote several times to Mr. Middleton on this business, that his seal was to the treaty and writing of discharge. Why did he not negotiate in my favour? Mr. Middleton replied, the Nawab is the master. I wrote frequently but without effect. Being helpless I represent to you the state of my affairs, that, notwithstanding the existence of this treaty, I have been treated in this manner. It is useless for me to stay here. Whatever is, is a compact. Whenever anyone deviates from his compact he meets with no credit for the future; and the light of mine eyes, Azoph-ul-Dowlah, wrote to me, that he had sent his own aumils into my jaghires, and would pay ready money from his treasury. Reflect on my security for his adhering to his future engagements from the consideration of his conduct under his past promises. I do not agree to his ready money. Let me have my jaghire as formerly; otherwise, leaving this place I will wait on you at Benares, and thence will go towards Shahjehanabad, because he has not adhered to his engagement. Send letters to Azoph-ul-Dowlah, and to Mr. Middleton, and Hussein Reza Khan, and Hyder Beg Khan, not to molest the Begum's jaghire; and to let them remain, as formerly, with the Begum's aumils. And it is here suspected of me, that my aumil plundered the property of Mr. John Gordon. The case is this:—Mr. John Gordon arrived at Tanda, a jaghire of mine, fighting with the zemindars of Akberpoor, which belongs to the Khalseh. Accordingly, Mr. John Gordon having come to Tanda, my aumil performed whatever appertained to his duty. Afterwards Mr. John Gordon wrote to me, to send my people that he might come with them to Fyzabad. I sent people, accordingly, to bring Mr. John Gordon; and the said gentleman arrived here in complete safety; and Mr. John Gordon is now present; ask him yourself of these matters. Mr. John Gordon will represent matters in detail. The truth will then become known, how ill founded the calumny is. Should you come here for a few days it will be very well, and if not, I will wait on you; and your coming here is very necessary, that all my affairs may become arranged. And send a speedy answer to my letters, and a letter to Azoph-ul-Dowlah, and Mr. Middleton, and Hussein Reza Khan, and Hyder Beg Khan, on the subject of ceasing to molest my jaghires. And send me constantly news of your health, for my peace of mind depends thereon."

Infringement of her rights.

Affair at Tanda.

This letter was transmitted to Mr. Hastings. I desire your Lordships will remark upon this letter, for it is a most

11 JUNE 1794. important one indeed. It is hardly worth observing that all this came out of the various trunks; that this letter is out of the trunk of Mr. Scott, Mr. Hastings' private Persian secretary and interpreter—Jonathan Scott. Now, my Lords, in this letter there are several things most worthy of your Lordships' observation. The first thing that is worthy your observation is, that this woman has no consciousness that she was ever accused of any rebellion at all; for the only accusation that ever came to her own ears was, that Captain Gordon said that his baggage was robbed by one of her amils. She says, it is no such thing. She produces testimonials of their good behaviour with regard to him; and—what is the essential point of all—she desires Mr. Hastings to apply to this Mr. John Gordon, and to know from him what truth or falsehood there is in that charge of accusation, and what weight there is in the attestation she produces. "Mr. Gordon is here: inquire of him." This Mr. John Gordon is in India: he swears before Sir Elijah Impey, and, without mentioning one word of these things, he states this robbery; but he never states the paper which he wrote to prove that he owed his very life to this lady. There was not one word of inquiry. Colonel Hannay was then alive: not one word of inquiry of Colonel Hannay. Captain Gordon was alive, and she refers to him. She says, "Mr. John Gordon is here; apply to him." That very man who was there and swears before Sir Elijah Impey. Did he publish that attestation before Sir Elijah Impey, with that letter that at that very time was in Mr. Hastings' possession, in Mr. Scott's trunk—that very letter in which he is desired to make that inquiry? He publishes, and never once retracts, that accusation of Captain Gordon's against her, in which he does not make the smallest degree of mention of this proceeding.

Demand for an inquiry on the part of the Begum.

Ingratitude of Capt. Gordon.

Suppression of evidence by Mr. Hastings.

Mr. Hastings knows it. Did he afterwards endeavour to inform her of it? Did he ask this Captain Gordon one question in India, where the matter might be ventilated? Not one word! Therefore we fix upon him the fraud, deceit, and the knowing production of false evidence here, when the woman desired upon the spot to have the man who is the evidence against her examined upon that subject. This he does not do; but, however, with much more prudence he brings him here. And what does he bring him here for? He brings him here to discredit his own testimony, to discredit papers which he does not deny; for he admits that

he did give these attestations. But what does he do to discredit them? There are two of them. They shall be read. And then you will first remark that he knew of the declarations of this woman, he knew that they referred to Captain Gordon for the utter falsity of his own charge. He never inquires one word of Captain Gordon; but he brings up that false charge, and he adheres to it to this hour, without ever inquiring one word of Captain Gordon about it in India:— 11 JUNE 1794.

"Copy of a Letter to Jowar and Behar Ali Khan, from Mr. Gordon:" page 698. Letter of thanks from Capt. Gordon to Jewar and Behar Ali Khan.

"Sirs, my indulgent friends, remain under, &c. &c. &c."—after compliments,—"I have the pleasure to inform you, that yesterday, having taken leave of you, I passed the night at Moorgunge, and next morning, about ten or eleven o'clock, through your favour and benevolence, arrived safe at Goondah. Mur Aboo Buksh, zemindar, and Mur Rustum Ally accompanied me.

"To what extent can I prolong the praises of you, my beneficent friends? May the Supreme Being, for this benign, compassionate, humane action have you in his keeping, and increase your property, and speedily grant me the pleasure of an interview; until which time continue to favour me with friendly letters, and oblige me by any commands in my power to execute. May your wishes be ever crowned with success! My compliments, &c. &c. &c."

"Copy of an address from Mr. Gordon to the Begum:"—the same page 698. His address to the Begum.

"Begum Saib of exalted dignity and generosity, whom God preserve. After presenting the usual professions of servitude, &c., in the customary manner, my address is presented. Your gracious letter, in answer to the petition of your servant from Goondah, exalted me. From the contents I became unspeakably impressed with the honour it conferred. May the Almighty protect that royal purity, and bestow increase of wealth and prosperity! The welfare of your servant is entirely owing to your favour and benevolence; a few days have elapsed since I arrived at Goondah with the Colonel Saib.

"This is presented for your Highness' information. I cherish hopes from your generosity that, considering me in the light of one of your servants, [you will] always continue to exalt and honour me with your gracious letters. May the sun of prosperity continually shine!"

Here is what was concealed, suppressed and sunk, when a charge was made against this woman at Lucknow, before Sir Elijah Impey. I wish to impress your Lordships that, before Mr. Hastings left Bengal, in the trunk of Major Scott, his private Persian interpreter, was this letter, which he must have received. Did he make that inquiry of Captain Gordon? No. Did he make that inquiry of Colonel Hannay? Did he make that inquiry of any human being before he left the place; or put this poor woman in in the least way of getting justice against this Captain Gordon, who, after acknowledging his life was owing to her

Culpable omission on the part of Mr. Hastings to institute an inquiry.

11 JUNE 1794. favour, calumniates and traduces her, to her utter destruction? No; he never did. And therefore he is chargeable, and I charge him, with everything that is wrong in Captain Gordon's evidence.

These papers, which carry with them the clear refutation of all these charges, are never once produced, though Captain Gordon was referred to expressly, for an inquiry and explanation of this whole transaction, by the woman herself. But you hear no more of it. There is no appearance of it in the affidavit. There is no appearance of it before the Council. No such paper was laid before the Council: none before the court of Directors. But at last, the House of Commons having by ways and means come at the truth of this matter, and he not daring to deny the existence of this paper, here [it] comes out. Here is Captain Gordon examined;—not at the time when the Begum could be examined upon the spot. He is brought to give reasons why the paper he had written was false. Was any man suffered, in any place whatever, to come and give attestation to his own infamy—to declare that he has written a paper which he was afterwards to prove [false], when produced against him, to invalidate a false testimony that he has given,—to come afterwards and endeavour to prove the absolute falsity of his own deeds by his own evidence? What evidence does he produce to prove the falsity of a paper written by him? Why, himself! the sole evidence to prove the falsity of it. And how does he prove the falsity of it? Why, says he, "at the time when that letter was written, she sent a person with me, and the person sent as an escort was willing to receive a proof that he had done his duty; and therefore I wrote a complaisant letter. I meant nothing. It was merely to satisfy the mind of the man." Is that the way that solemn letters, written upon great occasions to great people, are to be explained away? Why, if he had said nothing but "your servant, such an one, has done his duty," [this explanation might pass].* But it is, you see, in another complexion;—owing his life to her. But if you will admit that it is possible—possibilities have an unknown extent—that he might have written such a letter, at such a time, for such a purpose, and that the letter he wrote is false, and he is to prove the falsity of the letter, and, in order to prove the falsity of it, he made an affidavit; it is one of

Capt. Gordon's attempt to invalidate his previous testimony.

* Revised copy.

the most complex pieces of fraud and falsehood that, I believe, ever existed in the world, to be proved by the same man out of his own mouth. But it is more than that. There is another letter, written some days after that, which he does not pretend to be written as a proof that a messenger had executed his commission properly:—"Your gracious letter in answer to the petition of your servant from Goondah exalted me. From the contents, I became unspeakably impressed with the honour it conferred." 11 JUNE 1794.

My Lords, this letter was not sent back by a messenger, but was written in consequence of a correspondence, in the nature of a petition for something or other, which he made to the Begum. That petition they have suppressed and sunk; but it is plain the petition was sent and was granted. And, therefore, the apology that was made for the former letter does not apply to this letter, which was written after.

How, then, do they attempt to get rid of this? "Why," says he, "the Colonel Sahib"—meaning Colonel Hannay—"was not at Goondah, but at Succora, about eighteen miles from it. This," says he, "was some mistake; and therefore you ought not to pay much regard to this paper,"—not denying the letter, nor was he capable of denying it,—"because," says he, "Colonel Hannay was not there." How do we know whether Colonel Hannay was there or not, but by his own word for it? But suppose he was not there, and it was clearly proved he was eighteen miles distant from it; he was with Major Naylor at the time: might not his Persian scribe—for he does not pretend to say he wrote the letter himself—might he not take Major Naylor for a colonel? For he was the superior officer to Captain Gordon, and he might think him Colonel Sahib. Errors of that kind may be committed in our own country. Every day we may take a major for a lieutenant-colonel. There is no error that might not have happened in such a case. He was in as high rank as Colonel Hannay, for Colonel Hannay at that time was only a major: I do not believe either of them were properly intitled to the name of Colonel Sahib. But I am ashamed to be obliged to remark upon this: but by their own evidence, and on false constructions, they endeavour to get rid of their own written acts, clearing those persons of these crimes of which they accused them.

My Lords, I come back again upon the letter to Mr. Hastings. How dare you to produce Captain Gordon here?

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How came you to insult the Peers—how came you to insult the public justice of your country—when you would not inquire upon the spot of that man to whom you were referred concerning this very transaction? No; I hope your Lordships have got enough of that kind of evidence. All the rest is of the same batch, of the same description; made up, after all, of no one thing in the world but hearsays; except in one point only. That is, that Colonel Popham and another gentleman tell you, that, in a battle with Cheyt Sing, they took prisoners two wounded najibs, or swordmen; and that these two wounded najibs told them that they were sent there by the Begums; that they got two rupees and two wounds; and that they thought it a bad compensation for two wounds; and these two men with their two wounds and two rupees were sent away. It does not appear that it was considered of consequence enough to these officers ever to tell one word of that to Mr. Hastings, when they knew he was collecting evidence of all kinds, good, bad and indifferent, from all sorts of persons. They did not tell him one word of these two wounded najibs.

Alleged evidence of the najibs.

My Lords, I must speak a few words to this, because I consider it as one of the most outrageous violations of your Lordships' dignity, and the greatest insult to justice that ever has been offered to you. A najib is a swordman. It appears in evidence that the Nawab had najibs; that the Begums had najibs. It appears in evidence that Colonel Hannay had a corps of najibs. It appears that every power in Hindustan has that kind of soldiers; as much as, probably, every power in Europe has that kind of soldier that is called a grenadier. Then it amounts to this:—that two men being wounded in an action far from the place, not examined, not cross-examined, not kept to be examined, and whose evidence was never reported, is to be a reason why you are to believe that these Begums were concerned in a rebellion against their son, and that they are to forfeit all their lands and goods, and to suffer all the indignities that we have stated, in consequence of it.

Its inadmissibility and worthlessness.

My Lords, I am really ashamed to mention so scandalous a thing. But suppose we were to put the case, that we accused Mr. Hastings—as we accuse him of many things—suppose he was accused of instigating the Raja of Berar, or somebody else, to fall upon some of the country powers; and that the evidence that we produced at your bar, to prove that against Mr. Hastings, was, that an officer took some

najibs there, who declared they were instigated by Mr. Hastings to go into the service of that prince. Would you bear such a thing? Would you suffer it to be produced? Do you think we should have so little regard for our own reputation as to venture to produce such evidence before you? Supposing we charged him with a violence against the Begums, what was our proof against him? That two persons, who never appeared before nor since—that two grenadiers, in English uniforms—which would be a great deal stronger than in this case, because they have no particular uniform belonging to the Begums—but, that two English grenadiers had been wounded and let go again, who said that Mr. Hastings had instigated them to make war upon the Begums. Why, you would not suffer such evidence. And yet two of the first women in India are to be stripped of all they have in the world upon no better evidence! No; you would not disgrace the British peerage, you would not disgrace human reason itself, by confiscating the meanest property of the meanest wretch, or subjecting him to the smallest fine for the smallest delinquency upon such evidence. But I venture to say, that, if it was an action of assault and battery, it would be scouted in every country; if it was an action for the smallest sum, such evidence would be regarded as odious and contemptible, supposing it perfectly true and that a perfect reliance might be had upon it. What sort of evidence is this upon which all the property, all the dignity, all the rank and all the power of Asia is to be attacked? by which a British guarantee is to be forfeited, and the honour and dignity of the Crown of Great Britain, and the Parliament itself who sent him, is to be forfeited? Upon the evidence that two swordmen said they were sent by the Begums. They could not be sent by the Begums in their own person; they must be sent by Jewar and Behar Ali Khan. And then, we ask you again, how came they not to be informed of this? why not call for their muster rolls of these najibs? No; they inflict the penalty, but they never hear the accusation nor the evidence.

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Documentary evidence adduced by Capt. Williams.

Then let us see how the account of this business stands. Captain Williams says, he had a great number of letters and papers to prove this rebellion of the Begums. Captain Williams declares that he had lost all these letters. He orders a search to be made in Mr. Hastings' record office, called a trunk; and accordingly, in Captain William's trunk, is found a paper worthy of such a cause; a letter made to

11 June 1794. criminate the Begums, in which their names are not mentioned, nor [is there] any possibility of their being included in it. By the paper which is preserved, you may judge of the whole of the papers that are lost. Such a letter, I believe, was never brought as evidence before in a court of justice. It is a letter said to have been intercepted, and is in page 1931 of your Lordships' Minutes:—

"To the most noble * * * * whose prosperity be everlasting. It is represented that the august purwannah (command) having completed his honourable arrival, on the 16th of the month in the evening, highly exalted me. It is ordered that I should charge Medeeporee and the other enrolled sepoys belonging to my district, and take bonds from them that none of them go for service to the Rajah; and that when 400 or 500 men, nudjeeves and others, are collected, I should send them to the presence. According to the order, I have written to Brejunekar Shah Rehemet Ullah, who is in Bhooaparah, charging him to take bonds from them, and that whatever sepoys fit for service are collected he should send to the presence. As at this time the wind is contrary, the sepoys will not * * * * * without travelling charges; for I have learnt from a letter previously received from Brejunekar Shah Rehemet Ullah that the people there also are badly inclined. By the grace of God, the unalterable glory shall be * * * * * Zehan Beg and the nudjeeves who were in fort of Aneelah, have gone off to Gorruckpore."

This is a letter of somebody or other, employed by somebody or other for the recruiting service. It should seem by the word "presence," somebody employed in enlisting forces for the Nawab. The charge against the Begum was, that she joined with the rebellious Rajas to exterminate her son's government and the English influence in that country. In this very paper, you see that the soldiers entering into that service, and officers who are to contract for soldiers, are expressly bound that they shall not join the Rajas. And therefore they produce as proof that the Begums had joined the Rajas, and had joined them in a rebellion for the purpose of exterminating their son in the first instance, and the English after, a paper that contains an actual stipulation that the condition of their enlistment is, to give bond that they should not go into the service of the Rajas!

Its tendency to prove the innocence of the Begums.

There is another circumstance as strong as can be to make their whole acts the refutation of their own false pretences. This letter says the country is disaffected to them, and it mentions ill disposed parts of the country. Now, every one knows the country was ill disposed; and, therefore, this was some person who was employed against the persons who were so ill disposed, namely, the very Rajas so mentioned before. The Counsel, after producing this, had the candour

to declare that they do not see what use could be made of it. 11 June 1794.
No; to be sure, they do not see what use can be made of it to their cause; but I see the use that can be made of it against their cause. I say, that the papers which they do insist on, and which do not appear, deserve no credit, when the only paper that they have reserved operates directly against them; and that, therefore, if we had the rest of the contents of this trunk, we should probably find it make strongly against them. For you have no reason to judge of it, otherwise than by the specimen; for how can you judge of what I take away but from what remains?

The man who hides this thing in his trunk never understood one word of the Persian language, and consequently was liable to every kind of mistake, if he had been fair. But who produces this? Why, Captain Williams, who, in his affidavits, never mentioned the Begums without mentioning Saadat Ali. This Captain Williams, whom we charge to have murdered a principal man of the country by his own hand, without the foundation of law or process, this man, to defend these acts—which we charge on Mr. Hastings, stating him as one of the grievances of the country—this is the man who comes here to you as evidence against these women, and produces these kind of monstrous papers! All they have produced to you is no more than this: —that such a man believes such a man heard; and Sir Elijah Impey declares that no man doubted it—for he always comes, as a supplement—more than the rebellion of 1745. And, upon my word, a comparison of that kind by way of evidence is a little indecorous, I beg to say, in a chief justice of India.

Character of Capt. Williams.

Your Lordships remember enough of the rebellion in 1745, to know that, when Lord Lovat was tried at this bar, the mode of proceeding against him was different. The rebellion of 1745 was proved, notwithstanding its notoriety. But neither notoriety nor proof would have signified, if it had not been brought home to Lord Lovat directly, personally and particularly. And a chief justice, sent to represent the sacred Majesty of the Crown of England, has gone so far as to say, at your bar, that no more doubt could be entertained of it than of the rebellion in 1745. He forgets that he himself carried the order to confiscate these people's property, without any trial whatever. He forgets that the rebellion of 1745 was proved at your Lordships' bar, just as if it had never been heard of or known in the world.

Case of the rebellion in 1745.

11 June 1794. This is the way of proceeding in an English court of justice; that is the way of proceeding in an Indian court of justice, by a chief justice who has rendered himself the instrument and letter carrier, the messenger, I may almost say the executioner, of Mr. Hastings.

I beg your Lordships to take a view—I desire no other estimate of the mode of proceeding in India than these two things:—the witnesses produced before Sir Elijah Impey at Lucknow; what they deposed there, and what is deposed here; and judge of the spirit of Indian government and Indian justice from the witnesses Mr. Hastings has produced.

Ignorance of the Nawab of the pretended rebellion.

But, to blow away and to put an end to all their false pretences, their hearsays or talks of najibs, and wounds, and the like, who is the first witness that we have produced upon this occasion? The Nawab himself, negativing the matter. Did he believe it? Not a word. Did he ever so much as hear of it? I will give a proof that [although] Sir Elijah Impey said afterwards that he was obliged to wheel round to avoid this dangerous place, Fyzabad,—and was advised by everybody,—"for God's sake, have a reverend care of your sacred person! What will become of the justice of India, what will become of the protection of the natives, if you should fall into the hands of these wicked, rebellious, women at Fyzabad?"—[yet] the Nawab, who is supposed to be the direct object of this rebellion, quits Mr. Hastings at the very moment when it is raging in the highest possible degree. Your Lordships will observe the dates. He quits Mr. Hastings a day or two after the treaty of Chunar; and, when he does go,—though Mr. Hastings says, "he met me with a state as humble as my own," when he was going to charge upon Cheyt Sing that he met him with 2,000 men—he brought some considerable forces with him; no man of his rank in that country will go without—he left a part of these forces with Mr. Hastings, notwithstanding he was going into the focus and centre of the rebellion. He then went on, with a corps of about 1,000 horse. He left a part of them with Mr. Middleton, and he gallops himself with a few horse into the very capital where the Begums, we are told, had 10,000 armed men. He puts himself in their power, and remained some time at Fyzabad.

His friendly visit to the Begums.

Is it to be conceived that a man, against whom a conspiracy is formed by his own mother, would go into the den of a lioness who is going to devour her own whelps—who has, contrary to all the rules of nature and policy, conspired to

destroy her own son? The first thing he does is to make her a friendly visit. You have the evidence of Captain Edwards. Captain Edwards was *aide-de-camp* to the Nawab: he was in his service, about his person, his attendant at Chunar, his attendant back again. What does Captain Edwards tell you? It is necessary your Lordships should see what he says, in order to see the iniquity of it. I am not doing it to exculpate the Begums, for I say you cannot try them here; you have not the parties to do it; they ought to have been tried there: but I am going to demonstrate the iniquity of this abominable plot beyond all doubt. 11 June 1794.

It is necessary your Lordships should know the length and breadth and depth of this mystery of iniquity. I would refer you to part of Captain Edward's evidence, which is in page 779 of the printed Minutes:— Evidence of Capt. Edwards.

"Whether you ever heard of any native of credit and authority in the Nabob's dominions who appeared to believe the rebellion of the Begums?"—"No: I never did." "On the contrary, have you any reason to believe that the Nabob gave credit to it?"—"I really cannot rightly presume to say whether the Nabob did or did not; but I am apt to believe that he did not." "Have you any reason, and what, to form a belief about it?"—"I have, I think. If he supposed the rebellion ever existed at Fyzabad, he would have been the first person to take and give the alarm to the British troops." "And no such alarm was taken or given to the British troops?"—"No, I think not. As I was always about his person and in the camp, I think I certainly must have known it or heard of it; but I never did."

We assure your Lordships you will find it upon your printed Minutes that he dismissed a part of his guard; that Captain Edwards says, he was credibly informed that he left behind him a part of that guard of horse; and that, so desirous was he to go into the power of this cruel lioness his mother, he advanced—as he is a very vigorous man and a bold and spirited rider, he left all his guards behind him, and rode before them into the middle of Fyzabad. There is some more evidence to the same purpose, in the same page 779. The next question to what I read before is:—

"When did you hear of this rebellion? Did not you understand it to have been alleged that one object of it was to dethrone the Nabob himself, as well as to extirpate the English?"—"I understood that the intention of the princesses, the Begums, was to extirpate the English troops out of the country and out of those dominions, and likewise to depose her son, and set another son, who seems to have been a greater favourite of that family, upon the throne, in the room of the present Nabob; and that son's name is Saadit Ali. I have only heard this from report. I have no other knowledge but mere report. I understood from the report she was to extirpate the English, and depose her son

11 JUNE 1794. who is now upon the throne." "Was it after or before the seizing of the treasures that you heard a circumstantial account of the supposed object of the rebellion?"—"The report was more general after the seizing of the treasures; but yet there were reports prevailing in the neighbourhood that our troops were sent there in consequence of the charge, that was made by Colonel Hannay and some of his officers, of a rebellion existing then at Fyzabad,—or having existed; I cannot rightly say which." "Was that report after the order for the troops to march to Fyzabad?"—"It was more general: it was very general then, when the troops did march there, and more general after the seizing of the treasures." "When did the troops first march?"—"It was some time in the month of January, I believe, in the year 1782." "While you was with the Nabob in passing from Lucknow to Chunar, and while you was with him in the army returning from Chunar, did you then, out of the whole army, regular or irregular, ever hear of any report of the Begums being in rebellion?"—"No; I do not recollect I ever did." Upon cross examination.—"Do you recollect at what time, in August, 1781, you left Lucknow to proceed with the Nabob to Chunar?"—"No; I cannot rightly mention the date. All that I know is this, that I accompanied the Nabob, Mr. Middleton and his attendants, all the way from Lucknow to Chunargur. I really cannot recollect—I have no notes, and it is so distant a time since that I do not recollect the particulars of the month or the day; but I recollect perfectly I accompanied the Nabob all the way from Lucknow to Chunar, and returned again with him, until he struck off on the road to Fyzabad."

General disbelief of the report of the rebellion of the Begums.

Your Lordships see plainly the whole of this matter. When they had resolved to seize the Nawab's treasures, they propagated this report. In proportion as they acted and proceeded further in it, the report grew hotter and hotter;—I mean their propagation of the report. This man tells you when the propagation of this report began; when it grew hot; and when it was in its greatest heat. This man tells you that not one native of credit in the country believed it; that he did not think the Nawab himself believed it; and he gives a reason that speaks for itself—that he would have been the first man to give alarm himself, if he believed it, as he was to be the object of it.

He says the English were the principal spreaders of the report. It was a wicked report, propagated by Mr. Middleton and the English agents for the purpose; and, in the proportion as it went towards their object, they made that report hotter and hotter;—but which report the Nawab never heard of; which report the Nawab never believed; which report Captain Edwards never believed; and which was contradicted by his going with his small escort to Fyzabad. This is the manner in which that appears upon that ground.

Omission of mention of it by

There is another ground. Hyder Beg Khan, whom we have proved Mr. Hastings kept in his office entirely under

his government, when he comes to give his attestation, gives a long account of all the proceedings of Cheyt Sing's rebellion, with which this was coincident; and he ends it very remarkably—that he tells the whole truth and nothing but the truth. And yet this Hyder Beg Khan never mentions a word about the rebellion—that he had ever heard of it.

11 June 1794.

Hyder Beg Khan.

There is one evidence which puts an end to the whole; that is Major Gilpin's. Major Gilpin had the Begums and their eunuchs under his custody for a full year. He was obliged to watch them and to guard them. During all that time he lived at Fyzabad. And what are the words of Major Gilpin? He says, that, upon cool, deliberate, inquiry, and all the information he could get from all the inhabitants of Fyzabad, he did not believe the rebellion of the Bow Begum. A man who was in the country and commanded the troops, who had all the witnesses in his power, who had daily access to all parties at Fyzabad, a person who was attached to Mr. Hastings in the strongest manner—he declares that, upon cool, deliberate, inquiry, made at Fyzabad from all the inhabitants, he did not believe it of the Bow Begum. Then he was asked as to the elder Begum, the grandmother, who was the person who could be only charged with it in a secondary degree, and as conspiring with the other. He positively acquits the Bow Begum of this rebellion;—as to the Begum, he says, he knows no facts against her, except that at the battle of Buxar, in the year 1764, she had used some odd expressions concerning the English, being then at war with her son, Suja-ud-Dowla, and long before we had any empire or pretence to empire in that part of India; and that the expression of a rebellion which he had used with regard to her was improper, and it could only mean he had some opinion of her disaffection. That is in pages 909 and 910 of the printed Evidence. Therefore, if he did not know it, who was an active officer in that very place, and had the eunuchs in prison, whom he might have accused and might have examined and cross examined—if he knew nothing of that, judge of the wickedness and falsehood of this rumour that was spread about from hand to hand, and circulated by persons who questioned it, and never heard of it before the time Sir Elijah Impey went up, in order to get this evidence, and with Mr. Hastings' order to seize these treasures.

Major Gilpin's disbelief of the rumour.

But there is another affair that will prove Mr. Hastings

11 June 1794. knew the fallacy of this charge. It is part of Major Gilpin's evidence:—

His testimony in favour of the Begums.

"Had you any opportunity of knowing the character of the Begums, and whether they were disaffected to our Government?"—"I had a very good opportunity of knowing, from the circumstance of my having commanded so long there. The elder Begum, it was generally understood, and I have reason to believe, was disaffected to our Government; and my sentiments of her conduct stand recorded in my correspondence to the court of Lucknow to that effect. But, with respect to the Bow Begum, I acquit her entirely of any disaffection to our Government, so far as comes to my knowledge. Appearances were for some time against her; but, on cool, deliberate, inquiry, I found there was no ground for supposing her guilty of any rebellious principles at the time of Cheit Sing's rebellion." "Whether that, according to your belief, is not your present opinion?"—"I think I have answered that very fully, that it was upon those very principles that I did form an opinion of her innocence. How far they are justifiable or right I will not take upon me to say upon oath. There was no one circumstance that came to my knowledge, during my residence at Fyzabad, or my residence in India, that I would wish to withhold from your Lordships." "You state here—'upon cool, deliberate, inquiry.' What was that cool, deliberate, inquiry?"—"That cool, deliberate, inquiry was the conversations I had with the ministers and the people of Fyzabad, and the letters from herself expressing her innocence; and it appeared to me from those letters that she really was our friend and ally."

The same witness says, in page 909:—

"I understand you to say, that, originally, the report prevailed with respect to both the Begums, but that you was induced to alter that opinion with respect to the younger Begum, in consequence of Mr. Gordon's letters and the intelligence of some of her ministers and other persons;—were not those other persons in the interest of the younger Begum?"—"In general, the town of Fyzabad were in her interest." "In what sense do you mean—generally in her interest;—were the persons you conversed with merely those who were in her service and household, or the inhabitants of Fyzabad in general?"—"Both. I held conversations with both her own body servants and the inhabitants of the city."

A little lower down in the same page:—

"What do you mean by the word rebellion as applied to the Begums;—in what sense do you use it?"—"In raising troops, and in other acts of rebellion, in the common acceptation of the word." "Against whom?"—Against the Nabob's Government and the British Government jointly:—but I beg to know the particular time and circumstance the question alludes to." "I understand you to have said, you understood the elder Begum was in a constant state of rebellion:—in what sense do you use the word rebellion? Did you say the elder Begum was in a constant state of rebellion?"—"I always understood her to be disaffected to the English Government. It might not be a proper expression of mine—the word *rebellion*." "Do you know of any act by the elder Begum against the Vizier?"—"I cannot state any." "Do you know of any act which you call rebellion com-

mitted by the elder Begum against the Company?"—"I do not know of any particular circumstance: only it was generally supposed that she was disaffected to the Company." "What acts of disaffection or hostility towards the English do you allude to, when you speak of the conversation of the world at the time?"—"I have answered that question as fully as I can, that it was nothing but conversation; that I knew of no particular act or deed myself." 11 June 1794.

Here is an officer in command, in a place in the centre of the rebellion, an officer in possession of all the persons from whom information was to be got, he declares that, with regard to the Bow Begum, that is to say, the possessor of all those treasures, the person charged with the principal part of the rebellion, and who alone could have any means of carrying it on, because she possessed all the wealth and power,—he acquits this person; and he knows nothing against the old lady, but only he had heard she was disaffected. So the matter stands exposed to your view; not for the acquittal of these women, for I contend that they cannot be tried here, either directly or obliquely; but that they ought to have been tried there; that they were not tried there; and I bring this to show the base and wicked means by which they were carrying on this plot.

Hoolas Roi.

Then we go to another point. There is a person they call Hoolas Roi. He was employed by the Residents. The gentlemen say, "O! he was nothing but a news-writer. Why do you take any notice of him who was nothing but a news-writer?" Your Lordships would think that this man, whom they treat in such a manner, and whose negative evidence they think fit to despise, was, as they represent him, no better than a writer of those scandalous paragraphs which are written to misrepresent the proceedings of this court to the public—such a news-writer as that. See who this Hoolas Roi is. He is a person employed by the Resident at Lucknow to watch the English interest at Fyzabad, and there to represent himself. To show who this Hoolas Roi is, that for the convenience of the day they say was nothing but a news-writer, I will read to your Lordships a letter from Major Naylor to Colonel Jaques, commanding the second battalion, 20th regiment. It is in page 701 of the printed Minutes:—

Testimony of Col. Jaques and Mr. Middleton to his high position.

"Sir,—Hoolas Roi, the person appointed by the Nabob for transacting the business for which the troops are required here, will hold constant communication and intercourse with you; and, as he is instructed and acquainted with the best method to accomplish this business, Mr. Middleton requests implicit attention to be paid to what he may, from time to time, represent respecting the prisoners or the

11 June 1794. business in which he is employed. In short, as he is the person nominated by the Nabob, he wishes Hoolas Roi to be considered in the same light as if he himself was present."

A letter from Mr. Middleton to Lieutenant Francis Rutledge:—

"Sir,—When this note is delivered to you by Hoolas Roi, I have to desire that you order the two prisoners to be put in irons; keeping them from all food, &c., agreeable to my instructions of yesterday."

You first see in what a confidential light Hoolas Roi was considered;—that he was employed to carry some instructions, which do not appear; and it is ordered by Mr. Middleton,—"when these instructions shall come, to put those prisoners in irons, and keep them without food," &c. The Begums say, without food and water. *Et cetera* is a is a pretty large word:—"to keep them without food, &c., agreeable to my instructions of yesterday;"—which is a pretty general warrant to make people suffer a great deal. And this Hoolas Roi was the person appointed by Mr. Middleton to carry that order. But who is Hoolas Roi? A mere news-writer! Mr. Middleton declares he is a person to be received there to represent the Nawab; and he is the person, undoubtedly, who is the real Nawab of the country—namely, Mr. Middleton. And therefore, this man, whom they talk of in this manner, in order to make slight of an observation we made, and which I shall make again, they consider as if he was merely a paragraph monger in some scandalous newspaper; whereas his authority is ordered to be equal to that of the Nawab himself—and that by Mr. Middleton.

Mr. Hastings certainly thought him a man of some consequence, and he thought him a very fit witness to the severities that were practised, and of which he carried the order; and he thought he would be a fit witness to rebellion. Mark this:—he sent for this Hoolas Roi, who is now nothing but a mere paragraph monger—he sent for him from Fyzabad to Benares—a long journey: at last, he was examined before Sir Elijah Impey; and he has sunk his evidence! It is a suppression of truth which is equal to any suggestion of falsehood that can be conceived. This man, who had all their orders, who represented the English Government, who represented the Nawab's Government there—this man is sent for by Mr. Hastings; he gives his deposition before Sir Elijah Impey; and it is not to be found either upon the Company's record, in Sir Elijah Impey's

Suppression of his evidence.

trunk, in Jonathan Scott's trunk, nor in any one account whatever. The evidence of that witness, who ought to have spoken most clearly—and probably he did, and most decisively upon this subject—his evidence is sunk. Therefore, they sink the truth. They suppress the affidavit of the man who was at the bottom of every secret of both Governments. They have his affidavit, but they dared not produce it to you. They had the madness and folly to let you know obliquely that he had been sent for—or we find it in some way or other—and yet at the same time they have never produced his affidavit. There is a silence more damning to this Defendant than all expression. There you have a proof of a desire only to produce what they thought could make best for their wicked purposes, in the destruction of this great and ancient family. 11 June 1794.

All the English, it seems, believed it. Mr. Purling, who was Resident the year before this, never knew of anything like a plot carrying on by those women. We were almost ashamed to ask him. Then, did Mr. Bristow know of or believe this plot? He has been made to make some oblique hints to Mr. Hastings, as if they had used some improper conduct. Not stating what it was; but in a letter to Mr. Hastings, in which he endeavours to soften the cruel temper of this inflexible man, by going a little way with him, in saying, he thought they behaved improperly. And Mr. Wombwell is asked, whether any Englishmen doubted of it. He says, "Mr. Bristow doubts of it." And, indeed, Mr. Bristow did not believe one word of it; any more indeed than did Mr. Hastings, or anybody else.

Disbelief of Mr. Purling, Mr. Bristow and Mr. Stables, of the rebellion.

Did Mr. Stables, who is Mr. Hastings' colleague, a man of as much honour, I really believe, as can be, a faithful old servant of the Company, and very worthy of credit—I believe there is not a spot upon him during all his long service under the Company; if any, it is being a little too obsequious sometimes to Mr. Hastings—did he believe it?—No; he did not believe it neither; and he was one of the persons most authorised and ablest coolly to investigate it. These persons knew the state of the country, and they did not believe it. The Nawab did not believe it. The Begums were never charged with it. Nothing but this rumour given, and the story of two najibs. They were tried without those persons being heard, and their property confiscated; and the Nawab is dragged most reluctantly to this act, without ever hearing or knowing what he was dragged to; but a poor, miserable,

Compulsion of the Nawab.

11 June 1794. victim, dragged to violate all the laws of nature, all decency, all property,—to rob his own mother for the benefit of Mr. Hastings. He was forced to do it; made to be an instrument of punishing her for a plot, of which they do not pretend to say that she had ever so much as received the smallest degree of intimation.

My Lords, we have done, I think, with this nefarious business, at this period of it. But Mr. Hastings had another opportunity of examining into it. Your Lordships will not forget all the rules and principles of judgment, so much as not to know that judgment ought to precede execution; that trial ought to precede judgment; and that information and evidence ought to be the preliminary parts and the whole of the trial. There was not, at that time, even the slightest information given upon the occasion to the persons. Sir Elijah Impey goes up with the order to dispossess these women of their treasures; to seek for witnesses, in order to accuse them, without letting them know one word of the evidence that appeared against them, or even the Nawab. Neither the party accused nor the party offended knew one word of the matter. There was a probability that Saadat Ali might be concerned in it; but these women are, against all probability—solely for their wealth—accused of a rebellion which, I will venture to say, it is not in the power of human testimony to establish.

Corrupt motive for the accusation of the Begums.

But Mr. Hastings had another opportunity. He was reminded of this. The court of Directors desired Mr. Hastings to inquire into this business. Your Lordships will see what Mr. Hastings did in consequence of it; and then you will see the extreme audacity of defending this act at your bar, when he would not go into an inquiry into it—although he had the direct order of the court of Directors—in the place where that inquiry could be made, and in the place where these unfortunate women could have an opportunity of clearing their own character.

Order of the Directors for an inquiry into the charges against them.

I will now read to your Lordships an extract of a letter from the court of Directors to the Board of Calcutta, dated London, the 14th February, 1783:—

Letter of the Directors upon the subject of the alleged rebellion.

"4. By the second article of the treaty, the Nabob is permitted to resume such jaghires as he shall think proper, with a reserve that all such jaghirdars, for the amount of whose jaghires the Company are guarantees, shall, in case of a resumption of their lands, be paid the amount of the net collections through the Resident.

"5. We do not see how the Governor General could consent to the resumption of such lands as the Company had engaged should remain in

the hands of those who possessed them previous to the execution of the late treaty, without stronger proofs of the Begums' defection than have been laid before us; neither can we allow it to be good policy to reduce the several jaghirdars, and thus unite the territory and the troops maintained for the protection of that territory under one head, who, by that means, at some future period, may become a very powerful enemy to the Company. 11 JUNE 1794.

"6. With respect to the resumption of the jaghires possessed by the Begums in particular, and the subsequent seizure of the treasure deposited with the Vizier's mother, which the Governor General, in his letter to the Board, 23d January, 1782, has declared he strenuously encouraged and supported, we hope and trust, for the honour of the British nation, that the measure appeared to be fully justified in the eyes of all Indostan. The Governor General has informed us, that it can be well attested that the Begums principally excited and supported the late commotions, and that they carried their inveteracy to the English nation so far as to aim at our utter extirpation.

"7. It must have been publicly known that, in 1775, the Resident at the Vizier's Court not only obtained from the Begum, widow of the late Sujah Dowlah, on the Nabob's account, thirty lacks of rupees, half of which was to be paid to the Company, but also the forbearance of twenty-six lacks, for the repayment of which she had security in land, on the Nabob's agreeing to renounce all further claims upon her; and that to this agreement the Company were guarantees.

"8. We find that, on the 21st of December 1775, the Begum complained of a breach of engagements on the part of the Nabob; soliciting your protection for herself, her mother, and for all the women belonging to the seraglio of the late Nabob, from the distresses to which they were reduced;—in consequence whereof, it was agreed, in consultation, 3d January 1776, to remonstrate with the Vizier; the Governor General remarking:—'That, as the representative of our Government has become an agent in this business, and has pledged the honour and faith of the Company for the punctual observance of the conditions under which the treaty was concluded, you had a right to interfere, and justice demanded it, if it should appear that those engagements have been violated.' And the Board at the same time resolved:—'That, as soon as the Begum's engagements with the Nabob, to which Mr. Bristow is a party, shall be fulfilled on her part, this Government will think themselves bound to protect her against any further demand or molestation.'

"9. If, therefore, the disaffection of the Begums was not a matter of public notoriety, we cannot but be alarmed for the effects which these subsequent transactions must have had on the minds of the natives of India. The only consolation we feel upon this occasion is, that the amount of those jaghires for which the Company were guarantees is to be paid through our Resident at the Court of the Vizier; and it very materially concerns the credit of your Government on no account to suffer such payments to be evaded.

"10. If it shall hereafter be found that the Begums did not take that hostile part against the Company which has been represented, as well in the Governor General's narrative as in several documents therein referred to; and as it nowhere appears from the papers at present in our possession that they excited any commotion previous to the imprisonment of Rajah Cheit Sing, but only armed themselves in consequence of that transaction; and as it is probable that such a conduct proceeded entirely from motives of self-defence, under an apprehension that they them-

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selves might likewise be laid under unwarrantable contributions, we direct that you use your influence with the Vizier that their jaghires may be restored to them. But if they should be under apprehensions respecting the future conduct of the Vizier, and wish our further protection, it is our pleasure that you afford those ladies an asylum within the Company's territories; and that they be paid the amount of the net collections of their jaghires, agreeably to the second article of the late treaty, through the medium of our Resident, as may be ascertained upon an average estimate of some years back."

You see, the Directors have received every one of his false impressions. They received an idea that, after the rebellion of Cheyt Sing, they had—but not before, upon his own showing—showed a disposition to arm. They assume a false fact which Mr. Hastings stated. They assume a variety of other false facts. They assume that their jagirs were to be paid in regular pensions, which were totally confiscated without any compensation at all. But yet, upon Mr. Hastings' own showing, they found the transaction to be so dishonourable to the British Government that they desire him to make inquiry into it, and give redress accordingly.

Dissatisfaction of the Directors at the evidence adduced by Mr. Hastings.

Here is another order of the Company. Here is another call upon Mr. Hastings to examine to the bottom of this affair; because, even upon his own showing, and giving credit for that enormous mass of falsehood, as we have proved that he has stated in this narrative, they found themselves utterly dissatisfied with his evidence; and they gave this order to restore them to their jagirs,—"if, upon inquiry"—so and so. Here is another disobedience of the Company's orders. And you will see in what a gross and fraudulent manner he behaved. My Lords, we have shown, and it is in your Evidence, that he disobeyed the orders of the court of Directors; that he would not consent to the propositions of the Council; that he would not examine into any part of their conduct; that he would do nothing for justice; but that he stifled all inquiry into the business. And yet he thinks your Lordships will have patience at your bar to inquire into the business; that you will have patience at your bar to inquire into the disaffection of the Begums, when he refused, though expressly ordered by his masters, to do it.

Their order for further inquiry.

Disobedience of Mr. Hastings.

Here is a part of Mr. Hastings' Narrative, which is inserted in page 923 of your Lordships' Minutes:—

Motion of Mr. Macpherson.

"The points which the court of Directors seem to have most at heart are—first, that the engagement of the second article of the Benares treaty should be faithfully fulfilled; and secondly, to guard against the future conduct of the Vizier, if he should be disposed to oppress the

Begums. We should therefore ascertain whether the amount of the jaghires of the Begums is regularly paid to them through the Company's Resident, and give them notice that no future demands shall be made upon them. This the Governor General might, I think, do, in a letter that would make the Begums sensible of their past misconduct, yet inform them of the lenity and gracious intentions of the Company, in ordering them an asylum in Bengal in case of future distress." 11 June 1794.

In consequence of the foregoing opinion from Mr. Macpherson, the following minute was delivered by the Governor General:—

"I should gladly acquiesce in the motion made by Mr. Macpherson, if I thought it possible to frame a letter to the Begums in any terms which should, at the same time, convey the intimation proposed by it, and not defeat the purpose of it, or be productive of evils greater than any which exist in the consequences of the proceedings which have already taken place, and which time has almost obliterated. The orders of the court of Directors are conditional. They require nothing, but in the event of discoveries made subsequent to the advices which were before you on the 14th of February last. In alleviation of the former conduct of the Begums, nothing has since appeared in relation to them but their refusal—or rather, that of one—to fulfil her engagements for the payment of the remainder of the sum exacted from her by the Nabob Vizier, in the beginning of the last year. Whatever obedience may be due to the clear and ascertained spirit of the orders of the court of Directors, this obligation cannot extend to points to which neither the letter nor evident spirit of their orders apply. If I am rightly informed, the Nabob Vizier and the Begums are on terms of mutual good will. It would ill become this Government to interpose its influence by any act which might tend to revive their animosities, and a very slight occasion would be sufficient to effect it. It will be to little purpose to tell them that their conduct has, in our estimation of it, been very wrong, and at the same time to announce to them the orders of our superiors, which more than indicate the reverse. They will instantly take fire on such a declaration, proclaim the judgment of the Company in their favour, demand a reparation of the acts which they will construe wrongs, —with such a sentence warranting that construction,—and either accept the invitation, to the proclaimed scandal of the Vizier, which will not add to the credit of our Government; or remain in his dominions, but not under his authority, to add to his vexations and the disorder of the country by continual intrigues and seditions. Enough already exist to affect his peace and the quiet of his people. If we cannot heal, let us not inflame, the wounds which have been inflicted. Minute of Mr. Hastings.

"If the Begums think themselves aggrieved to such a degree as to justify them in an appeal to foreign jurisdiction,—to appeal to it against a man standing in the relation of son and grandson to them,—to appeal to the justice of those who have been the abettors and instruments of their imputed wrongs, let us at least permit them to be the judges of their own feelings, and prefer their complaints before we offer to redress them. They will not need to be prompted.

"I hope I shall not depart from the simplicity of official language in saying, that the majesty of justice ought to be approached with solicitation, not descend to provoke or invite it, much less, to debase itself by the suggestion of wrongs and the promise of redress, with the denunciation of punishment, before trial, and even before accusation."

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Its unparalleled insolence.

If ever such a paper appeared, since the beginning of the world, of a person who stands in the relation of a servant to the Company, and [owes] obedience to their orders, defying and flying in the face of his masters, when desiring him to do an act which may tend, in their opinion, to clear himself, if done, I shall allow that every word we have said to your Lordships upon this occasion, to mark his guilt, ought to be expunged from your Minutes and from our Charges.

My Lords, observe what he says himself. I would remark, before I observe upon this violent and atrocious act of rebellion in Mr. Hastings, the cruel purposes for which he does it; for he is never a rebel to one, that is not a tyrant to others. They are co-relative: they constantly go together. It is suggested that the Nawab is the persecutor, the oppressor, and that Mr. Hastings is the person who is to redress the wrong. There they have mistaken the point totally; for Mr. Hastings is the principal, the Nawab only an instrument:—"If I am rightly informed, the Nawab and the Begums are on terms of mutual good will. It would ill become this Government to interpose its influence by any act which might tend to revive their animosities, and a very slight occasion would be sufficient to effect it." What animosities had they? None. Mr. Hastings gets the Nawab to rob his mother; and then he supposes, contrary to truth, contrary to fact, contrary to everything your Lordships have heard, that the Nawab would fall into a fury if his mother were to obtain any redress; if there were to be the smallest inquiry into this business, that it would create a flame in the Nawab's mind, on account of the active, energetic, spirited, part he took in this transaction. Therefore, says he, "Oh! for God's sake, soothe the matter. It is a green wound; don't uncover it. For God's sake, do nothing to irritate it! It will be to little purpose to tell them that their conduct has, in our estimation of it, been very wrong, and at the same time to announce to them the orders of our superiors, which more than indicate the reverse."

Dissection of the Minute.

Mr. Hastings' pretended reasons for avoiding an inquiry.

"First," says he, "I will not do them justice. I will not enter an inquiry." Why? "Because they charge us with the wrong." Then for that reason you ought to do it. "No: it is telling them that our superiors are of opinion that we are in the wrong." And they did not only indicate, but more than indicate, that he was in the wrong. Why, when his superiors more than indicated that he was in the wrong, was he not bound tenfold to make that inquiry, for

his honour and for their satisfaction, which they direct him to make? No: he will not do it:—"Because," says he, "such a sentence warranted that construction; and [the Begum would]* either accept the invitation, to the proclaimed scandal of the Vizier, which will not add to the credit of our Government, or remain in his dominions but not under his authority, to add to his vexations and the disorder of the country by continual intrigues and seditions." 11 June 1794.

My Lords, here is this man, who is constantly thrusting out this peaceable Nawab before him, pushing him, as if with a bayonet behind him, to go forward into every base thing, and then he declares he will not satisfy the Directors, his masters, for fear the Nawab should fall in a passion with his mother; and at the same time, for fear the mother should resent the wrongs which the court of Directors declare he has inflicted upon her. What does it amount to? It amounts to this:—"The Begums accuse me of doing them injustice, and the Directors accuse me of doing them injustice; and for that very reason, because one believes it and the other accuses and indicates an opinion, therefore I will not inquire into it." Why? "Because it may raise disturbances." Why, the mother was disarmed and could not hurt the Nawab. All her landed estates he knew were confiscated. He knew all her money was in his possession. He knew she had no means, if she had been disposed, to create intrigues and cabals. What intrigues and cabals could there be, in his sending a letter to know what she has to say upon the subject? He will not institute any inquiry into it when the women may be acquitted.

Groundlessness of his alleged apprehension.

"If the Begums think themselves aggrieved to such a degree." Observe, this is no measure of the Begums; it is an order of the court of Directors, made by them upon his own representation of his own case, and upon nothing else. The Begums did not dare to murmur. God knows, the poor creatures were, at or about the time, his prisoners; robbed, stripped of everything; without hope and without comfort. But the Directors, doing their duty upon that occasion, upon his own false representations, in that bundle of affidavits upon which they wish your Lordships to acquit him, condemn him. Says he,—"appeal to a foreign jurisdiction." When these women were to be robbed, we were not foreigners to them. On the contrary, we adjudged them guilty of

His attempt to ignore the order.

* Revised copy.

11 JUNE 1794. rebellion. We sent an English chief justice to collect materials against them. We sent English officers to take their money. The whole was an English transaction. When wrong is to be acted, we have then an interest in the country to act in it; but when the question is of justice, when the question is of inquiry, when the question is of hearing, then it is a foreign jurisdiction. For you are to suffer Mr. Hastings to make it foreign or make it domestic, just as it answers his purposes.

And then, they are to appeal against a man standing in the relation of son and grandson to them, to appeal to the justice of those who have been the abettors and instruments of their imputed wrongs. Why, my Lords, he has allowed that he is the abettor; he is the instrument to whom the Company impute their wrongs; and yet, with all these charges lying upon him, he does defy it in the way that you have seen.

Mr. Hastings' assumption of sovereign dignity.

But he, it seems, is all at once transformed into a great sovereign:—"The majesty of justice ought to be approached with solicitation." My Lords, he forgot the court of Directors: he forgot the laws of England: he forgot the Act of Parliament. They must approach him with solicitation! They approached him by the orders of the court of Directors. He defies the orders of the court of Directors. He refuses redress to those whose injuries others had patronised, and would make no inquiry. "Then," says he, without making an inquiry,—"time has obliterated their sufferings." Oh! what a balm of oblivion time spreads over the wrongs, wounds and afflictions, of other people, in the view of the person who inflicts wrongs and oppression. The oppressor soon forgets. It was in the year 1783, when he came to this resolution, that the waters of Lethe had been poured over all their wrongs and oppressions; and he insults the court in saying, either that their acts, or else the Begums' acts, must be solicitations to him.

Interruption of the proceedings by Mr. Hastings.

Mr. Hastings.—My Lords, there was no order. A man's patience may be exhausted. I hear so many falsehoods, that, at length, I do declare there was no order of the court of Directors. Forgive me, my Lords, he may say what he pleases again; I will not controvert it. But there is no order;—if there is, read it.

Mr. Burke.—Judge you, my Lords, what the insolence, audacity and cruelty, of this man must be, from his want of patience in his [present] situation, when he dares to hold

this language here!—and your Lordships will reckon with him for it, or the world will reckon with you. 11 JUNE 1794.

Mr. Hastings.—There was no order for inquiry.

Mr. Burke.—Your Lordships have heard the letter read. It is the letter from the Directors I read just now. You will judge whether that is an order or not. I did hope in these two days to put an end to this business, but when your Lordships hear us charged with direct falsehood at your bar, and you hear this wicked wretch who is before you—

A Lord.—Order, order, order!

Mr. Burke.—Order, my Lords, we call, in the name of the Commons. Your Lordships hear us accused at your bar of falsehood, when we have read the orders. Here is the man whom we have described as the scourge and terror of India, in thus disobeying what we call and insist on to be the orders, and more than orders, of the Company to him, to inquire into this matter,—he gets up and charges us, not with a mistake, an error, a wrong construction, but a direct falsehood; and that his patience is worn out with the falsehood he hears. This is not an English court of justice, if this is to go on. We must beg leave to retire and take instructions of our constituents. He ought to be sent to Bridewell for going on in this manner.

[*Mr. Wyndham read the letter again.*]

Mr. Burke.—With regard to the ravings of this unhappy man, I am sure, if I was only considering what passed from him to the Managers in the box, and knowing what is due to a wounded conscience smarting under the impressions of his own guilt, brought before an awful tribunal, I would allow everything to it; but, my Lords, we have the honour of the Commons—we have the honour of this Court to sustain. Your Lordships, the other day, for an offence committed against a constable who was keeping the way under your orders, did, very justly and to the great satisfaction of the public, commit the party to Bridewell, for a much slighter insult against the honour and dignity of your Court. Passing by, therefore, this matter for the present, till your Lordships can seriously consider what the mode of this proceeding is, I proceed.

Recent committal by the Court.

We have read to your Lordships the orders of the court of Directors;—we consider them as their orders. If they were not their orders, your Lordships have heard them read, and you are as good judges of it as we. Your Lordships have

11 June 1794. heard that the Council considered them as orders, because they moved upon them. We consider them as orders, because Mr. Stables, in evidence before you here, who was one of the Council, considered them as orders; and yet this man has the frantic audacity in this place to call them no orders;—that he cannot stand the repetition of such abominable falsehoods as are repeatedly urged against him. Your Lordships must not suffer that. Your Lordships will not suffer it; for, if you do, I promise you the Commons will not suffer the justice of this country to be trifled with and insulted in this manner. Because, if your Lordships do, they must say that very disagreeable consequences and disagreeable inferences will and must happen, with respect to the public, concerning it. You will forgive, and we know how to forgive, the ravings of people smarting under a conscious sense of their guilt; but, when we are reading documents and commenting upon them, this kind of language your Lordships ought really to consider. As for us, we consider it no more than other noise and brawlings of criminals who, in irons, may be led through the streets, raving at the magistrate who has committed them. We consider him as a poor miserable man raving at his accusers. It is natural he should fall into all these frantic ravings; but it is not natural that the Court should indulge him in them. We will show you the sense in which Mr. Wheler understood this letter.

Demand for its interference on the present occasion.

Mr. Wheler's recognition of the order for an inquiry.

A letter from Mr. Wheler, dated the 14th of October, 1783; page 921 of the printed Minutes:—

"It always has been, and will be, my wish to conform implicitly to the orders of the court of Directors; and I trust that the opinion which I shall give upon that part of the Court's letter which is now before us will not be taken up against its meaning, as going to a breach of them. The orders at present under the Board's consideration are entirely provisional.

"Nothing has passed, since the conclusion of the agreement made by the Governor General with the Vizier at Chunar, which induces me to alter the opinion which I before held, as well from the Governor General's reports to this Board as from the opinions which I have heard of many individuals totally unconcerned in the subject, that the Begums at Fyzabad did take a hostile part against the Company during the disturbances in Benares; and I am impressed with a conviction that this conduct of the Begums did not proceed entirely from motives of self-defence. But, as the court of Directors appear to be of a different opinion, and conceive that there ought to be stronger proofs of the defection of the Begums than have been laid before them, I think that, before we decide on their orders, the late and present Resident at the Vizier's Court and the commanding officers in the Vizier's country ought to be required to collect and lay before the Board all the information

they can obtain, with respect to the defection of the Begum during the troubles in Benares, and their present disposition to the Company." 11 JUNE 1794.

The next is a letter dated September 9th, 1783, from Mr. Stables;— Mr. Stables' recognition of the order.

"The court of Directors by their letter of the 14th February, 1783, seem not to be satisfied that the disaffection of the Begums to this Government is sufficiently proved by the evidence before them. I therefore think, that the late and present Resident and commanding officers in the Vizier's country at the time should be called upon to collect what further information they can on the subject, in which the honour and dignity of the Government is so materially concerned; and that such information may be immediately transmitted to the court of Directors."

Extract from Mr. Stables' evidence; page 432:—

"What was your motive for proposing that investigation?"—"A letter from the court of Directors. I conceived it to be ordered by them." "Did you conceive the letter of the court of Directors positively to direct that inquiry?"—"I did so certainly at the time, and I beg to refer to the minutes which express it."

Page 436. A question put to the same witness by a noble Lord:—

"The witness has stated, that, at the time he has mentioned, he conceived the letter from the court of Directors to order an inquiry, and that it was upon that opinion that he regulated his conduct and his proposal for such inquiry. I wish to know whether the expression *at the time* was merely casual; or am I to understand from it that the witness has altered his opinion of the intention of this letter since that time?"—"I certainly retain that opinion, and I wish the inquiry to go on."

You see, my Lords, that his colleagues so understood it. You see that we so understood it. You see Mr. Hastings speaking—"You may go on as you please." We must go on in our way. If your Lordships think that no order upon Mr. Hastings, you will acquit him of the breach of the order. But it is the most singular thing in the world, among all the astonishing circumstances of this case, that this man, who has heard, from the beginning to the end of this [trial], breaches of the Company's orders constantly charged upon him—I will venture to say that there is not a single step that we have taken in this prosecution, or in observations in evidence, in which we have not charged him with an avowed direct breach of the Company's orders:—you have it ten times this day:—we have read his Defence before the Commons, in which he declares he did intentionally, in naming Mr. Markham, break the Company's orders:—[it is singular, I say, that this man should now pretend to be so sore upon this point.]*

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What is it now that makes him break through all the rules of common decency and common propriety, show all the burnings of guilt in his mind, at one order of the innumerable orders which he has broken; which he has avowed breaking, and justified himself a thousand times in the Company's books for having broken; which one of his own body, one of the Council, swearing at your bar, reiteratedly declared to be his sense of it? We consider it the strongest order that was ever given to a man; because it says,—"That if you do not find, upon inquiry:"—it puts the very case:—"if you do not find such and such things, we shall consider the English honour wounded and stained; and we desire you to give reparation." There are two parts of this letter which we take to be equally strong. But there is another order we charge him with the breach of; namely, the order of restoring to them their jagirs, and, if any apprehension is feared from the Nawab, of bringing them into the Company's territories;—the order of giving them for their satisfaction the amount of their jagirs.

Mr. Hastings' admission of his breach of orders.

Order for the restoration of the jagirs.

Now let his impatience come forward. If he has not in this letter received positive orders for that purpose, he received positive orders to give satisfaction. The positive orders to give satisfaction were preceded by the supposition of an inquiry, to justify him either in the acts he had done, or to justify him in the restoration of that property. He did neither the one nor the other. He did nothing for the Company's honour, or his own honour. He did nothing for the satisfaction of wounded justice, or of these injured women. He did nothing to fall in with the opinion of the respectable Mr. Stables; but [shelters himself] under the pretence of the majesty of justice. With that insolence with which he assumes to himself to be justice—who could not try the cause —who was the party in it—he thinks he is the majesty of justice; and that this majesty of justice can only be approached by solicitation. There is a direct order to reinstate these women in their jagirs—to give them full satisfaction; and it supposes a previous inquiry to be made, to know how far he can be justified in his accounts or not. Therefore we do go on still, and declare that he did audaciously violate, not only in this instance, but in every instance, the Company's orders; that he violated their direct orders; that he violated their implied orders; that he violated every part of them; and that the violation was, not only a rebellious attack upon the Company, but a cruel injury to the persons respecting

Mr. Hastings' uniform disobedience of the Company's orders.

whom he was ordered to make inquiry; and upon pretences as false as hell, namely, that he was only concerned as an accessory in the business: whereas your Lordships have had it proved that the Nawab was only a miserable accessory forced into the service, and that he and his chief justice were the principal agents in this business. And your Lordships will do justice upon him; and the more so, when such a paper as this is read before you, and he declares he does not consider it as an order of the Company. What orders has he obeyed, what principles of rebellion has he not laid down, when this is a paper by which he does not find himself positively obliged by every principle of honour, and every principle of obedience to the people over him, and respect and justice to the people that are under him, and respect to his colleagues? 11 June 1794.

Accordingly, we see these cruel wrongs, this whole mass of fraud, which we have proved to be upon false pretences in every step, supported by false representations and palpable falsehoods. He has the audacity, at last, to end his whole career with regard to these unhappy women by refusing to inquire previously—by refusing to inquire substantively—by refusing to obey the orders of the Directors to inquire—by refusing to obey the orders of the Directors to reinstate them in their property. It is an express order to reinstate them in their jagirs. Did he do it? Did he take the least step in it? No! He who feels to the quick everything which touches him—which is the part in which I was interrupted—finds a total oblivion, an actual indemnity, in the wrong he has done. This woman, in one year, was to forget all her injuries, renounce all her feelings, submit to all the indignities of these false accusations, because a year is passed and he is afraid of opening her wounds. This shows you the utter falsehood of his pretence respecting the Nawab; and that he could not have done a more gratifying thing to the Nawab than to have directly and literally fulfilled his orders, namely, to reinstate the Begums in their jagirs; which he positively refused to do. We hoped to have done with this business, but I shall beg your Lordships' patience a little longer. I hope that both the prosecutor and the judges will have that patience which the criminal wants. Falsehood of his pretences.

"Letter from the Nabob Vizier to Mr. Hastings, 25th February, 1782:" page 723:— Letter from the Nawab.

"You performed on every occasion towards me whatever was becoming of friendship: I too have done whatever affection required and you

11 JUNE 1794. commanded; and in future, also, whatever may be your pleasure, there shall be no deviation therefrom; because whatever you direct is altogether for my benefit. The business for which I came to Fyzabad is become settled by your favour. Particulars will become known to your wisdom from the writings of Mr. Middleton. I am grateful for your favours. If in these matters you sincerely approve me, communicate it, for it will be a comfort to me. Having appointed my own aumils to the jaghires of the lady mother, I have engaged to pay her cash. She has complied with my views. Her pleasure is, that after receiving an engagement he should deliver up the jaghires. What is your pleasure in this matter? If you command, it will comfort the lady mother—giving her back the jaghire after I have obtained my views; or I will have it under my aumils. I am obedient to your pleasure."

His readiness to restore the jagirs.

My Lords, you saw the orders of the court of Directors to restore the jagir. He does not restore it, because he thinks he should offend the Nawab and open the breach. He had at that very time a letter from the Nawab, in a suppliant manner, you hear, requesting him to restore this very jagir, which he says the Company had not ordered, which we have proved they had ordered him to restore; and which he refused, under the pretence of fear of offending the Nawab, who requested that he would restore them the jagirs which he pillaged from them. These are things which I thought to have omitted observing upon, in order to save your Lordships' time, and not to overload the business; but I bring forward this matter to refute this monstrous pretence—which we did not imagine he could have made, if he had not brought it out, and suggested that there was a false charge made upon him—that your Lordships should see that pretence is totally false; that he could not be afraid of offending the Nawab and creating a quarrel between him and his mother on the subject of jagirs, when the very Nawab entreats him—at that time [he had] the letter in his pocket—to restore the jagirs. There is every kind of thing which impresses guilt. We now have done with this business—the most atrocious that is known in the history of mankind; which has stained throughout all Asia the British name; which has forfeited our fame for honour and integrity; which has forfeited our fame for public faith; and which has introduced us as breakers of faith, destroyers of treaties, plundering the unhappy and unprotected; which has dishonoured, and will for ever dishonour, the British name. If this criminal is impatient, consider the patience of these unfortunate women whose cause has been refused to be inquired into. Suppose it nothing but a mere suggestion of the court of Directors; that it is only something that they hinted to him; that they thought his conduct wrong and

bad:—why did he not satisfy his employers by endeavouring to clear his conduct and clear the honour of the British name? But what he would not do the Commons have done. On their part, they expect, and insist upon it, that your Lordships will do your part. The majesty of justice is not suppliant.* We come to the majesty of justice; we see that throne in which resides—invisibly, but virtually—the majesty of England; we see your Lordships representing the juridical [majesty] in the highest court in this country; but we do not approach you with intercession. We make it a petition of right. We claim it: we demand it. Justice is not suppliant, even before the Majesty of England. It comes boldly forward, and never thinks it affronts its sovereign by claiming what is the right of all his people.

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Right of the Commons to demand justice.

My Lords, I find my own strength sufficient to proceed in the business; and, if your Lordships choose it, it shall be entirely in you, whether you will adjourn now or whether I shall proceed. You have seen in what manner the Nawab, his country, his revenues, his subjects, his mother, his family, his nobility and all their fortunes, real and personal, have been disposed of. Your Lordships see it. I hope you have a feeling something different from this species of impatience of this prisoner upon the occasion; and therefore we do desire, and insist upon it, that your Lordships will [do your part]; not approaching you suppliantly, but with the demand of justice at your Lordships' hands.

Case of the Khurd Mahal.

Now, my Lords, we proceed to let your Lordships see how he has acted towards another set of women. For [he is cruel to] the weak sex; and, in proportion as any persons are weak and powerless to resist him, in that proportion is his cruelty.

We will show your Lordships how the women of the late Suja-ud-Dowla, in the Khurd Mahal or lesser palace, had been secured—and stated by the Directors to be secured—in their maintenance, by treaty. You will see, when Mr. Hastings had usurped the whole government of Oude, and brought it into a servile dependence on himself, how these women fared; and then your Lordships will see whether he is criminal.

* So written in the MS.: read "to be supplicated"?

CONTINUATION OF THE SPEECH OF THE RT. HON. EDMUND BURKE, MANAGER FOR THE HOUSE OF COMMONS, IN GENERAL REPLY ON THE SEVERAL CHARGES; 12 JUNE, 1794.

12 JUNE 1794.

MY LORDS,—That your Lordships may have everything distinctly before you, and that we may have no further altercations concerning what matter is in the Charge, when we afterwards come to produce and reassert it and to support it by evidence—that there may be nothing which may be deemed a surprise upon the party, and that may be thought to give cause for any extraordinary, vehement, improper, emotions on his part, we shall beg to read the Article of the Charge upon the matter we are going to produce.

Cruel treatment of the women and children of Suja-ud-Dowla.

My Lords, the next point that we go upon is,—"the reducing the women and children of the Nabob Suja-ul-Dowla to a state of great indigence and want, by the oppressive appropriation of the revenues, and by plundering all those persons who might possibly, out of the regular course, have supplied them; which said seizure of the treasures of the said Begums, the imprisonment of their ministers, and subsequent sale of their effects, were conducted with circumstances of aggravated atrocity, highly disgraceful to the British name and character, by being the means of reducing the mother and grandmother of the then reigning prince of Oude to the utmost distress, under the pretended authority of the said prince, and by being the means of reducing the women and children of the late Nabob Sujah-ul-Dowla, dependent upon the said Begums, by want of the mere necessaries of life, to break through all the principles of local decorum which constitute the character of the female sex in that part of the world; and, after fruitless supplications and shrieks of famine, to endeavour to break the enclosures of the palace and force their way to the market-place, in order to beg for bread; and, finally, to submit to the extremity of disgrace and degradation, by exposing themselves to public view with the starving children of their late sovereign, the brothers and sisters of the reigning

prince; in which attempt they were attacked by the sepoys, armed with bludgeons, and driven back by blows into the palace." 12 JUNE 1794.

My Lords, we have, first, laid before you the sufferings and disgraces of women of the first distinction in Asia; protected by their rank—protected by their sex—protected by their near relation to the prince of the country—protected by two guarantees of the representative of the British Government in India. We now come to another class of women who suffered by the violent misappropriation of the revenues of the Nawab, by which their regular allowance was taken from them; for the taking away the jagirs and all the treasures of the Begums which could supply them, reduced them to a state of indigence, and to the sufferings which belonged to the physical nature of man, as well as the indignities which particularly affected their place and sex.

The first thing, therefore, which we shall do is to restate to your Lordships and recall to your memory who these women were. And, first, we must remark to your Lordships that Suja-ud-Dowla had but one legitimate wife. Though the Mohammedan law, in its utmost extent, allows four, yet it is for the most part held disreputable—especially when a person is married to a woman of the first distinction—that he should have more than one wife. Upon looking into the Hedaya, your Lordships will see with what extreme rigour fornication is forbidden. We know, too, that persons of high rank, by customs that supersede both their religion and their laws, substitute others in the place of them; and that they do indulge a licence, in that particular, of having several wives of a subordinate kind. And you will find, by applying yourselves to Chardin's History, upon the subject of marriages, that such is the custom of all the princes of the East. They have other women, who can stand in no more respectable light than concubines; yet we know that even these, who may be subject to the power, the caprices, or the influence, of the great, are allowed, in the severest eye of the severest moralist, something more in excuse for their frailty and their weakness, and that they do find a degree of favour in such a case, and become the object of more particular protection.

Prevalence of concubinage among the Mohammedans.

We know that Suja-ud-Dowla was a man unquestionably in his manners very licentious with regard to women; that he had a great number together; so that his women and the women attendant upon the persons of his favourites did increase to a very great number. We know that his sons

Family of Suja-ud-Dowla.

12 June 1794. amounted to twenty. Mr. Hastings, in an apology which he makes for the conduct of them, allows that there were eighteen, beside Saadat Ali, who makes nineteen. The real number, I believe, was twenty ; but it is enough for us if there were nineteen.

Montesquieu supposes that there are more females born in the East than in the West. He said so upon no good grounds. We know, by a better and more regular information concerning [this matter], that the birth of males and females in that country is in pretty much the same proportion as here; that is to say, that there are something fewer of females born than of males. If you suppose that he had twenty sons, you may suppose he had about nineteen daughters, according to the usual course; that these sons and daughters were considered as persons of eminent distinction, though inferior to the legitimate children ; but all the men were called [Mirzas], and the ladies Begums, according to the rank of their father, without considering the rank which their mother held in the world.

The Khurd Mahal.

This is the state of their family. This is the state of the Khurd Mahal :—that a vast number of women, including the children of the late Nawab, amounting in the whole to about eight hundred, were shut up in what they call the Khurd Mahal or lesser palace. This is described, by one of the witnesses, to be about as large as St. James's Square. So that all the circumstances mark that the women were considered as objects of a great degree of respect and of the greatest degree of protection. To show they were so, I shall beg to refer to the treaty by which their maintenance was guaranteed by the English Government. In order to let your Lordships see that I state nothing to you that is not supported, not only by general history, which is enough to support an account of general manners, but what is supported by the particular and peculiar opinions of persons best informed at the place, [I will refer you to the Nawab himself];* and undoubtedly the Nawab of Oude, the Wazir of the empire, the subahdar of the country, was most likely to be the best judge of what respect was due to the women of his father ;—and therefore we will read what the Nawab's opinion was. It is in page 465 of the printed Minutes :—

Respect entertained by the Nawab for its inhabitants.

" Extract of a Letter from the Vizier, received 23d of August, 1782 :—

" I never found resource equal to the necessary expenses. Every year, by taking from the ministers and selling the articles of my harkhanna, I with great distress transacted the business; but I could not take care of my dependents; so that some of my brothers from their

difficulties arose and departed, and the people of the Khourd Mhal of the late Nawab, who are all my mothers, from their distresses are reduced to poverty and involved in difficulties. No man of rank is deficient in the care of his dependents in proportion to his ability." 12 JUNE 1794.

Another letter from the Wazir received the 31st July, 1784: the same page:—

"My brother, dear as life, Saadit Ali Khan, has requested that I would permit his mother to go and reside with him. My friend, all the mothers of my brothers and the women of the late Nawab, whom I respect as my own mothers, are here, and it is incumbent on me to support them. Accordingly I do it; and it is improper that they should be separated; nor do I approve it. By God's blessing and your kindness, I hope that all the women of the late Nawab may remain here. It is the wish also of my grandmother and my mother that they should."

My Lords, we have now shown you what the Nawab's opinion was of the estimation in which he held these women. He held them in the estimation of honorary mothers. He considers them as his mothers. He considers the children along with them as his brethren. He thinks it would be highly dishonourable to his government if one of them was taken out of the sanctuary in which they are placed, and in which, he says, the great of the country are obliged to maintain their dependants. This is the account given by the person best acquainted with the usages of the country, best acquainted with his own duties, best acquainted with his own wishes.

Various defences of Mr. Hastings.

Now, my Lords, you will see in what light another person, who describes himself by the name of majesty and other great distinctions, considers those persons; and in what contempt he is pleased to hold what is respected and what is held sacred in that country. Before I speak of the second defence, I must remind your Lordships that Mr. Hastings has made three defences;—one in the House of Commons; another he has made in the lobby of the House of Commons; which, however, is proved at your Lordships' bar to be written by himself.* The lobby defence—the outer door defence—militates in some respects, as your Lordships will find, with the indoor defence, and contains the real sentiments of Mr. Hastings himself, which he speaks with a little more freeness when he gets into the open air; and, as somebody has said, ridiculing a plot, he tells the hackney coachmen of it and the people in the streets. He says:—

Mr. Hastings' account of the women of the Khurd Mahal.

"Begums are the ladies of an Eastern prince, but these women are also styled the ladies of the late Vizier. Their sufferings are painted in strong colours, and the unsuspecting

* See Mr. Sheridan's Speech, 3d June, 1788; vol. i., p. 491, *note*.

12 JUNE 1794. reader is led to mix the subjects together, and to suppose that these, too, were princesses of Oude, since the title prefixed to this Article of the Charge proposes that and no other subject; and that all their sufferings proceeded from some act of mine, or had the sanction of my authority or permission. The fact is, that the persons of the Khourd Mhal (or little seraglio) were young creatures, picked up wherever youth and beauty could be found, and mostly purchased from the most necessitous and meanest ranks of the people, for the Nabob's pleasures." This is the indoor defence:—he says,—"that the said women, who were mostly persons of low condition, and the said children, if any such there were, lived in the Khourd Mhal, on an establishment entirely distinct from the said Begums."

My Lords, you see what the opinion of the Nawab, who ought to know the nature and circumstances of his father's palace, was respecting these women: you hear what Mr. Hastings' opinion was. And then the question is, whether your Lordships will consider these women in the same light which the person most nearly connected with them, and most likely to know them, does, or in the way Mr. Hastings thought proper, within doors and without doors, to assert. Your Lordships will be pleased to consider that, supposing the fact had been such as Mr. Hastings states—which he does not prove, but which it would be necessary for a man to do who makes so bold an assertion, in defiance of proof, totally contrary to the letter of the son of the man to whom these women belonged—your Lordships will remark he has produced not one word of evidence, either within the House of Commons or the House of Peers, or in the lobby, or anywhere else, to verify any one word he has said. He slanders these women, in order to lessen that compassion which your Lordships may have for the sufferings he inflicted upon them; giving them no kind of connexion with the dignity of the person by whom they had children;—which children, by the way, amount, as I stated, to about twenty males: we know that, in the whole, they amounted to about fourscore children of the Nawab, who had a race like the patriarchs of old, as many great persons in that part of the world have still.

Sympathy due to their misfortunes.

Supposing them now to be persons of that miserable, inferior, condition which Mr. Hastings represents them to be, when persons are reduced from great and opulent situations to low and miserable ones, they naturally excite

in the mind a greater degree of compassion by comparing the circumstances in which they once stood with those into which they are fallen; for famine, degradation and oppression, are famine, degradation and oppression, to those persons, even though they were as mean as Mr. Hastings chooses to represent them. But I hope that, as you will sympathise with the great on account of their condition, you will sympathise with all mankind, on the ground of the common condition of humanity which belongs to us all. Therefore, I hope your Lordships will not consider the calumny of Mr. Hastings against those women as any other than as an aggravation of his offence against them. That is the light in which the House of Commons took it; for they know both his in-door and out-door defence, and they still persevered in making the Charge, and do persevere in making it still. 12 June 1794.

We have first stated what these women were; in what light they stood with the Nawab; in what light they stood with the country at large. I have now to state in what light they stood with the British Government, previous to this invasion of their rights; and we will prove they were actual subjects of a guarantee by the Company:—

"Extract of an agreement made by Mr. Middleton, to all the particulars of which he engages to procure a treaty from the Nabob Azoph-ul-Dowlah, after his arrival, and that he will also sign it as follows:— Guarantee of the British Government for their security and maintenance.

"First, that, whenever the Begum shall choose to go to Mecca, she shall be permitted to go.

"Second, that, when the Nabob shall arrive, I (Mr. Middleton) will procure suitable allowances to be made to the ladies of the zenana and the children of the late Nabob Sujah-ul-Dowlah, and take care that they are paid.

"Third, that the festivals (Shaddee) and marriages of the children of the late Nabob Sujah-ul-Dowlah shall be at the disposal of the Begum; whenever she thinks proper she shall marry them; and whatever money shall be necessary for these expenses shall be paid by the Nabob.

"Fourth, that the syer of Coda Gunge and Ally Gunge shall be retained by the Begum as heretofore.

"Fifth, that I (Mr. Middleton) will, upon the arrival of the Nabob, procure Vizier Gunge and the garden of Sepoy Daud Khan, or their equivalent, for the Begum.

"Sixth, that I (Mr. Middleton) will endeavour to obtain from the Nabob the sum of 1,150,000 rupees, on account of the purchase of Metchee Bohaun and the house of Sahebjee, and the fort of the Gossein, with the land and garden of the Barraderry on the banks of the Goomty, and bazar and garden of the house of Mahnarain, and the house of Beng Persaud at Lucknow: all of which the Nabob Azoph-ul-Dowlah has assumed possession of.

"Seventh, that I will settle with the Nabob the allowances to be made

12 JUNE 1794. in ready money to the ladies of the zenana, and others specified in the following account:—total 17 lacks 250 rupees per month.

"Eighth, upon the arrival of the Nabob Azoph-ul-Dowlah Bahadre, I will endeavour with all my influence to settle the monthly allowances of Mohrum Ally Khan and Mahmud Eltafaut Khan, &c., the attendants of the Begum.

"Ninth, if the Begum shall go to Mecca, she shall leave her mhals and jaghires to the Begum, the mother of Azoph-ul-Dowlah, who shall remit the revenues thereof to the Burree Begum. No one shall prevent her enjoying her jaghires."

Now, my Lords, we will read the copy of an engagement under the seal of the Nawab Azoph-ud-Dowla, and under the seal and signature, in English, of Mr. Middleton, as follows:—

"First, I, who am the Nabob Azoph-ul-Dowlah Bahadre, do agree that the jaghires and gunges and monthly allowances of the officers and servants, and of the ladies of the zenana, and of those specified in the accounts annexed, shall be at the disposal and under the management and authority of the Begum, and no one shall oppose or prevent it. This I will punctually observe. In this agreement Mr. Middleton and the English are engaged.

"Second, whenever the Begum may choose to go to Mecca, I will not oppose it.

"Third, whenever the Begum should go to Mecca, she shall leave her lands, jaghires, &c., either in the care of my mother or of me; and I will procure bills for the amount of their revenues, and send them to her. No one shall oppose this.

"Fourth, the Begum shall have authority over all the ladies of her zenana. She shall let them remain with me, and not let them go anywhere without my permission, or keep them with her.

"Fifth, the jaghires Coda Gunge and Ally Gunge, &c., with the mahal and syer belonging to the Begum and made over to her, shall remain as heretofore in her possession,—total, 13,460 rupees per month.

"Eight, the Begum has authority over the ladies and attendants of the zenana. Neither myself nor any one else will oppose it.

"Ninth, the Begum (my grandmother) shall have the authority in all festivals, and in the marriages of the children of the late Nabob Sujah-ul-Dowlah, and with the consent of my mother and myself shall regulate them; excepting in the festivals (Shadee) the authority is mine.

"The English are guarantees to the above engagements so long as the Begum shall exist."

Your Lordships observe here something worthy of your notice. You will first perceive that the very treaty, in which Mr. Hastings was concerned, supposes that the Nawab Suja-ud-Dowla had children, besides the reigning prince by his sole legitimate wife. Your Lordships will observe that Mr. Hastings, in his Defence, has thought proper, with a full knowledge of that circumstance, to doubt whether there were any children. Then you see that these women are guaranteed; that allowances are made and settled for having

attendants of their own—for having possessions of their own—for having an eminent lawyer of their own, a maulavi. There is a regular establishment for them. They are not separated, as being distinct from the Begums. They are put by this very guarantee entirely under their management. The children are secured; the whole order and economy of them delivered entirely to the Begum the grandmother, and the Begum, the mother of the Nawab.

12 JUNE 1794.

Control of the establishment vested in the Begums.

My Lords, you see that all these arrangements have the solemn guarantee of the Company; that these women are a very considerable part of that guarantee; and therefore your Lordships will not consider the sufferings of these women, who were the objects of the care of the Nawab, the particular and special objects of the care of his mother and grandmother—two women of the very first rank that Asia knows—and guaranteed by the Company, first, by an agreement made with Mr. Middleton, and afterwards ratified at Calcutta—you will not treat their sufferings as of no consideration to you.

Impoverishment of the Nawab under the system of Mr. Hastings.

We have it first laid down to your Lordships that the Nawab was reduced to a state of the greatest possible misery and distress; that his whole revenue was sequestered into the hands of Mr. Hastings' agents; that a body of troops by the treaty of Chunar were agreed to be taken away from him, which were never placed upon him by any voluntary agreement of his own;—nay more, the temporary brigade, which Mr. Hastings proposed to take off, but kept on, which he considers, not only as a great distress to his finances, but a dreadful scourge and calamity to his country:—there was a whole pension list upon it, with such enormous pensions as 18,000*l.* a year to Sir Eyre Coote, and other pensions that Mr. Hastings proposed to take off, but did not:—that, in proportion as the Nawab's distress increased, Mr. Hastings' demands increased too. He was not satisfied with taking from him for the Company, but he took from him for himself. He demanded 600,000*l.* as a loan, when he knew he had neither money nor credit. We proved these things to your Lordships. The consequence of which was that these people, besieged by the English troops, all sorts of resource being taken away from them, and even the funds of the charity of their family, male and female, diminished—[were reduced to the last extremity of distress].* We shall now just state

Consequent distresses of the Khurd Mahal.

* Revised copy.

12 June 1794. what the condition of these women was, which we proved in this manner before your Lordships; and therefore I would wish, after the long time that has passed since the first production to this time, before you go to judgment, to refresh your memory [as to] what the nature of that oppression, cruelty and injustice, committed by Mr. Hastings, was; by which you may estimate the punishment which you will inflict upon him.

Letters of Capt. Jaques on the subject.

Letter from Captain Leonard Jaques to Richard Johnson, Esq., Resident at the Vizier's court, March 6th, 1782; page 851, printed Minutes:—

"Sir,—The women belonging to the Khourd Mhal complain of their being in want of every necessary of life, and are at last drove to that desperation that they at night get on the top of the zenana, make a great disturbance, and last night not only abused the sentinels posted in the gardens, but threw dirt at them. They threaten to throw themselves from the walls of the zenana, and also to break out of it. Humanity obliges me to acquaint you of this matter, and to request to know if you have any direction to give me concerning it. I also beg leave to acquaint you I sent for Letaffit Ali Khan, the cojah, who has the charge of them, who informs me their complaint is well grounded; that they have sold everything they had, even to the clothes from their backs, and now have no means of existing. Inclosed, I transmit you a letter from Monatall on the subject."

Letter from Captain Jaques to Richard Johnson, Esq., March 7th, 1782; page 852:—

"Sir,—I beg leave to address you again concerning the women in the Khourd Mhal. Their behaviour last night was so furious that there seemed the greatest probability of their proceeding to the utmost extremities, and that they would either throw themselves from the walls or force the doors of the zenana. I have made every inquiry concerning the cause of their complaints, and find from Letaffit Ali Khan that they are in a starving condition; having sold all their clothes and necessaries, and now have not where withall to support nature; and as my instructions are quite silent upon this head, I should be glad to know how to proceed in case they were to force the doors of the zenana, as I suspect it will happen, should no subsistence be very quickly sent to them."

Letter of Major Gilpin.

Letter from Major Gilpin to John Bristow, Esq., Resident at the Court of Lucknow, 30th October 1782;—

"Last night, about eight o'clock, the women in the Khourd Mhal zenana, under the charge of Letaffit Ali Khan, assembled on the tops of the buildings, crying in a most lamentable manner for food; that for the last four days they had got but a very scanty allowance, and that yesterday they had got none. The melancholy cries of famine are more easily imagined than described; and, from their representations, I fear the Nabob's agents for that business are very inattentive. I, therefore, think it requisite to make you acquainted with the circumstance, that His Excellency the Nabob may cause his agents to be more circumspect in their conduct towards these poor unhappy women."

Letter from Mr. Bristow to Major Gilpin, Fyzabad, 4th November, 1782; same page, 897:— 12 June 1794. Letter of Mr. Bristow.

"Sir,—I have received your letters of the 12th, 19th, 27th, and 30th ultimo. I communicated the contents of that of the 30th to the minister, who promised me to issue orders for the payment of a sum of money to relieve the distress of the Khourd Mhal. I shall also forward a bill for 10,000 rupees to you, in the course of three or four days; and if in the meantime you may find means to supply to the amount of that sum, I will become personally responsible to you for the repayment."

Letter from Major Gilpin to John Bristow, Esq., Resident at the Court at Lucknow, Fyzabad, 15th November, 1782; page 898:— Letter of Major Gilpin.

"Sir,—The repeated cries of the women in the Khourd Mhal zenana for subsistence have been truly melancholy. They beg most piteously for liberty, that they may earn their daily bread by laborious servitude, or be relieved from their misery by immediate death. In consequence of their unhappy situation, I have this day taken the liberty of drawing on you in favour of Ramnarain, at ten days' sight, for twenty son Kerah rupees, ten thousand of which I have paid to Cojah Lataffit Ali Khan, under whose charge that zenana is."

These, my Lords, are the state of the distresses in the year 1782; and your Lordships will see that they continued almost, with only occasional reliefs, during the period of that whole year. Now we enter into the year 1783, to show you that it continued during that whole time; and then I shall make a very few remarks upon it. I will now read your Lordships a passage from Mr. Holt's evidence; page 397:—

"Whether you saw a letter of intelligence from Fyzabad containing a relation of the treatment of the women in the Khourd Mhal?"—"Yes; I did, and translated it." "From whom did it come?"—"Hoolas Roi." "Who was he?"—"An agent of the Resident at Fyzabad, employed for the purpose of transmitting information to the Resident." "Was that paper transmitted to Mr. Hastings?"—"To the best of my recollection it was transmitted to the Board after I had attested it." Evidence of Mr. Holt.

This is to prove that Mr. Hastings was duly advertised of all these miserable and calamitous circumstances, contrary to the treaty of guarantee. From Mr. Holt's evidence, page 404:— Mr. Hastings cognizant of the distresses.

"Do you remember at what distance of time, after the receipt of the intelligence respecting the distresses of the Khourd Mhal, that paper was transmitted to Calcutta?"—"I cannot say." "Do you believe it was transmitted within ten months after the time it was received?"—"I understood it to be a letter received just before it was transmitted." "Then you understand it was transmitted as soon as received?"—"Yes; in the course of three days." "Can you bring to your mind the time at which the translation was made?"—"To the best of my recollection, it was in

12 June 1794. January, 1784." "Whether the distresses that had been complained of had ceased for above a twelvemonth before the distresses of the Khourd Mhal?"—"I understood they were new distresses." "Then you state that that account transmitted in 1784 was, as you understand, an account of new distresses?"—"Yes."

Now I refer your Lordships to page 899:—

"The Managers of the Commons acquainted the House that they would next read the paper of intelligence which had been authenticated by Mr. Holt, in his evidence at the bar, relative to the miserable situation of those women, which they meant to bring home to Mr. Hastings:—

"'An Extract of a consultation of the 17th February 1784:—

"'Fort William, the 17th February 1784.

"'At a Council, present the honourable Warren Hastings, Esq., Governor General, President; Edward Wheler, and John Stables, Esqs. Mr. Macpherson absent from the Presidency for the benefit of his health. The following letter and its enclosures were received from Mr. Bristow on the 8th instant, and circulated:—

"'Honourable Sir and Gentlemen,—I have the honour to forward for your further information the enclosure No. 3. It contains a relation of the hardships endured by the ladies of the late Vizier in the zenana.

"'(Signed) John Bristow.'

"'Translation of a paper of intelligence from Fyzabad:—

Account of the disturbances at the Khurd Mahal.

"'The ladies, their attendants and servants, were still as clamorous as last night. Letaffit, the daroga, went to them, and remonstrated with them on the impropriety of their conduct, at the same time assuring them that in a few days all their allowances would be paid, and should that not be the case, he would advance them ten days' subsistence, upon condition that they returned to their habitations. None of them, however, consented to his proposal, but were still intent upon making their escape through the Bazar; and, in consequence of that resolution, formed themselves into the following order:—the children in the front, behind them the ladies of the seraglio, and behind them again their attendants. But their intentions were frustrated by the opposition which they met with from Letaffit's sepoys. The next day Letaffit went twice to the women, and used his endeavours to make them return into the zenana, promising to advance them ten thousand rupees, which, upon the money being paid down, they agreed to comply with; but night coming on nothing transpired.

"'On the day following their clamours were more violent than usual. Letaffit went to confer with them on the business of yesterday, offering the same terms. Depending upon the fidelity of his promises, they consented to return to their apartments, which they accordingly did, except two or three of the ladies, and most of their attendants. Letaffit went then to Hoshmund Ali Khan, to consult with him about what means they should take. They came to a resolution of driving them in by force, and gave orders to their sepoys to beat any one of the women who should attempt to move forward. The sepoys accordingly assembled, and each one being provided with a bludgeon they drove them by dint of beating into the zenana. The women seeing the treachery of Letaffit, proceeded to throw stones and bricks at the sepoys, and again attempted to get out; but finding that impossible from the gates being shut, they kept up a continual discharge till about twelve o'clock; when, finding

their situation desperate, they returned into the Rung Mhal, and forced their way from thence into the palace, and dispersed themselves about the house and gardens. After this, they were desirous of getting into the Begum's apartments, but she, being apprized of their intentions, ordered the doors to be shut. In the meantime, Letaffit and Hoshmund Ali Khan posted justices to secure the gates of the lesser Mhal. During the whole of this conflict, the ladies and women remained exposed to the view of the sepoys. 12 JUNE 1794.

"'The Begum then sent for Letaffit and Hoshmund Ali Khan, whom she severely reprimanded, and insisted upon knowing the cause of this infamous behaviour. They pleaded in their defence the impossibility of helping it, as the treatment of the women had only been conformable to His Excellency the Vizier's orders. The Begum alleged that, even admitting that the Nabob had given these orders, they were by no means authorized in this manner to disgrace the family of Sujah Dowlah; and should they not receive their allowances for a day or two, it could be of no great moment; what had passed was now at an end, but that the Vizier should certainly be acquainted with the whole of the affair; and that whatever he directed she should implicitly comply with. The Begum then sent for two of the children who were wounded in the affray of last night; and after endeavouring to soothe them she sent again to Letaffit and Hoshmund Ali Khan, and in the presence of the children again expressed her disapprobation of their conduct, and the improbability of Azoph-ul-Dowlah's suffering the ladies and children of Sujah Dowlah to be disgraced by being exposed to the view of the sepoys. Upon which Letaffit produced the letter from the Nabob, representing that he was amenable only to the order of his Excellency, and that whatever he ordered it was his duty to obey; and that had the ladies thought proper to have retired quietly into their apartments, he would not have used the means he had taken to compel them. The Begum again observed that what had passed was now over. She then gave the children 400 rupees and dismissed them; and sent word by Sumnud and the other eunuchs that if the ladies would peaceably retire to their apartments, Letaffit would supply them with three or four thousand rupees for their present expenses; and recommended to them not to incur any further disgrace, and that if they did not think proper to act agreeable to her directions they would do wrong. The ladies followed her advice, and about ten at night went back into the zenana. The next morning the Begum waited upon the mother of Sujah Dowlah, and related to her all the circumstances of the disturbance. The mother of Sujah Dowlah returned for answer, that after there being no accounts kept by crores of revenue, she was not surprised that the family of Sujah Dowlah, in their endeavours to procure subsistence, should be obliged to expose themselves to the meanest of the people. After bewailing their misfortunes and shedding many tears, the Begum took her leave and returned home.'"

Interference of the Begum.

My Lords, if there is a spark of manhood—if there is in your breasts the least feeling for our common humanity,—if the least feeling in your Lordships' breasts for the sufferings and distresses of that part of human nature which is made by its peculiar constitution to feel,—if there is a trace of this in your breasts, if you are alive to those feelings, it is impossible you can bear or tolerate that wicked tyrant who

12 JUNE 1794. is the cause of the whole of it; it is impossible that you should not join with the Commons of Great Britain in feeling the last degree of indignation for it. You see women, who have been proved to be in a most respectable situation, exposed—which is held to be the last of indignities—to the view of a base, insulting, ridiculing, or perhaps vainly pitying, populace. You have the first women in Asia, who consider their honour as joined with these people, weeping and bewailing the calamities of their house; weeping and bewailing the crores—that is, the millions—of revenue which Mr. Hastings took care never to account for. I do not wonder at the indignities they suffered, from a man who has so little feeling for them that he doubts the existence of the Nawab's children, who were wounded by the bludgeons of his soldiers. He doubts their existence, when he knows he has distinctly transmitted to him and the Council, by Mr. Bristow, the Resident, the wounds these children suffered! After struggling with famine within the walls, famine drove them out. A famine, created by this oppressor, this exactor, by the crew he brings before you as evidences to acquit him, drove them violently out of the walls; and, as violently as they were driven out by his famine, they were driven in by his violence. His peculation forced them out of their palace; his bludgeons drove them into it again. And there you have laid before you such a scene of woe as, I believe, never was known, continued on, with very few intermissions, from early in the year 1782 to almost the year 1784. In the last part of the period it was, by Mr. Holt's evidence, more peculiarly known to him: the accounts were transmitted regularly and in time.

Responsibility of Mr. Hastings for the sufferings of the women and children.

But why do I say made known to him? Do not your Lordships know that Oude was his; that he treated it like his private estate; that he treated it like his private demesne; that the Nawab dare not do a single act without him? Though his Resident, made by himself, forced upon him at first in defiance of the Company, was there, we do not find a trace of anything done to redress them. These are some of the consequences of that abominable system which, in defiance of the laws of his country, Mr. Hastings established in Oude. He knew everything there. He had spies upon his regular agents, and spies again upon them; and we can prove—indeed we have proved—that he had a constant secret correspondence, beside the correspondence by the means of Major Palmer, by the means of Major Davy,—

in short, by a whole host of agents he had there, beside all his pensioners, and all those others that did and must have informed him of every circumstance of this affair. But, if he had never been informed of it at all, the Commons contend, and very well contend, that he who usurps the government of a country—extinguishes its native sovereign—places in it instruments of his own, made by himself in defiance of the authority of the court of Directors—should be responsible for everything that was done in the country. And we do charge him with it. We declare him responsible for it; and we call for your Lordships' judgment upon the most cruel and enormous outrages, and the greatest sufferings, perhaps, that ever humanity experienced in any country. 12 JUNE 1794.

Were the sufferers few? There were eight hundred of them, besides children. Were they persons of any consequence? We have heard that they were persons of the first consequence. Were they persons not deserving pity? You have heard that they were women; that they were the principal women in Asia. He has taken it into his head to consider with contempt the lower women; but your Lordships will consider them both with respect; and where they are not objects of your respect, they will be objects of your compassion. Your Lordships will see justice done to the greatest disgrace that ever the British nation suffered. These women must have perished through famine, it is proved, if the gaolers whom Mr. Hastings named over them, Captain Jaques and Major Gilpin, had not raised money upon their own credit, and supplied them with an occasional rescue from the famine that had been brought upon them by the legion of locusts which Mr. Hastings sent into that country, to devour it and to eat up the bread of the individual inhabitants in it. And therefore, when they talk of his peculation, of his taking but a bribe here and a bribe there, see the consequences of his system of peculation; see the consequences of a usurpation which extinguishes the natural authority of the country; see the consequences of a clandestine correspondence that does not let the injuries of the country come regularly before the authorities in Oude, to relieve it. Consider the whole mass of crimes, and then consider the sufferings that have arisen in consequence of it.

Number of the sufferers.

Assistance afforded them by Capt. Jaques.

We have stated, first, the sufferings of the Begums; the sufferings of the two thousand women—I believe they are not much less—that belong to them and are dependent upon them, and dependent on their well being. We have stated

Recapitulation.

12 JUNE 1794. to you that the court of Directors were shocked and astonished at the first, before they had heard the second. We have proved they desired him to redress these women, if, upon inquiry, he found that his original suspicions concerning their conduct were ill-founded. He declares here that he did not consider these as orders. Whether they were orders or not, was ever anything so pressing upon all the duties and all the sentiments of man to do what was just;—that is, to make such an inquiry as would justify his acts, and to give them redress? Not one trace of redress do we find; except, as we suppose, as we hear nothing after this of the famine, that Mr. Bristow did so effectually interpose, as he seems to be a man of humanity, that they should no longer depend for the safety of their honour on the bludgeons of the sepoys, who defended them from the profane view of the vulgar; which we must state as a matter of great aggravation in this case.

Acuteness of moral suffering.

Men are made of two parts; the physical part and the moral. The physical parts suffer famine, distress, violence, outrage. But disgrace, shame, violation of manners, violation of opinions, injury to the inborn sentiments of people, made doubly forcible upon them by the manners and usages which is the second nature of their country,—there is a wrong and a violence much more shocking—there is a wrong and violence which much more enters into the mind of man—than the physical sufferings. Physical sufferings he has in common with beasts. The beast does not look before or after. The sufferings of the moment are all that he suffers. Corporal feeling and pain he feels only for the moment; and man, if he had only the physical nature, would feel no more. But man is a creature of prejudices—a creature of opinions—a creature of habits, and of sentiments growing out of them. This is a new source of feeling, that makes every corporal distress double; and it has a whole class of distresses of its own—for the insults which are given to the common nature which belongs to us and beasts; and for the sufferings which belong to what hurt us as men—for the sufferings which hurt the protected part, the female part—without any compliment, I shall say, the better and more virtuous part of it. These are the things that have gone to the heart of the Commons.

Alleged want of authenticity of the intelligence for-

They say that it comes as an anonymous paper of intelligence, without date, as his Counsel say, transmitted from a newspaper writer at Fyzabad. This is the contempt with

which they treat this serious paper, which was sent up to Mr. Hastings himself by official authority; which he had from Hoolas Roi, who was the news-writer at that place, the person who was to convey authentic intelligence concerning the state of it to the Resident. The Resident received it as such: he transmitted it; and [it was not] till this hour—till the Counsel were instructed—God forgive them for obeying such instructions!—till the Counsel were instructed to treat these things with ridicule, that we have heard this person called a common news-writer of anonymous information, and the like. If the information came in any way the least authentic, instead of coming in a manner the most authentic in which it was possible to come to Mr. Hastings, he was bound by every feeling of humanity, every principle of regard to his own honour and his employers, to see whether it was true or false; —if false, to refute it; if true, to find redress. He has done neither. Therefore we charge upon him the cause, and we charge upon him the consequences—and all the aggravations of it. And we call both upon justice and humanity for redress upon those people, and for the severest punishments which your Lordships can inflict.

12 June 1794.

warded from Fyzabad.

If, in this mass of crimes that we have brought before you, there was none at all but this,—this, I will say, is a greater crime than any man has ever been impeached for before the House of Lords, from the first records of Parliament to this hour. But, my Lords, we are ripening in guilt; indeed, we are. This thing, which alone would have ruined any one man, is but a small part in the mass of the peculation, oppression and tyranny, of the person we have brought before you. All the excuses that were made with respect to the Begums here are gone. Were they guilty of rebellion? Who accused them of it? What hearsay even against them of it? What persons, employed in robbing and destroying the country, and stated by Mr. Hastings so to be, had a hearsay about these women? No; the guarantee stood in their favour. Why, if it was not guaranteed, doubly guaranteed, by the great seal of humanity,—it ought to be in the conscience of the keeper of that great seal, and every great man, and every person in power in the world,—if not guaranteed by that seal, it was guaranteed by the Company; and not one of the vain and frivolous pretences of a rebellion apply to these women. Therefore, here the sufferings are as great—the sufferings indeed are greater, because they have, joined to the moral, which are common to them, all the

Inoffensive character of the women of the Khurd Mahal.

12 JUNE 1794. physical sufferings upon this occasion. And Mr. Hastings is answerable for the whole; notwithstanding those miserable excuses which he has produced to the court of Directors, and has produced here, in his justification. My Lords, we leave that with you.

We now proceed to another part, which Mr. Hastings has not thought proper to deny, but upon which we shall make a little explanation and some reflections. You will hear what we have charged him with in another Article of the Charge—part of the seventeenth Article.*

Seventeenth Article of Charge.

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* Mr. Burke proceeded to read clauses of the seventeenth Article of the Impeachment, with Mr. Hastings' answers to them; but was interrupted by the Lord Chancellor, and the following discussion ensued:—

Objection of the Court.

"*Lord Chancellor.*—It is matter of the seventeenth Article of Charge, and parts of the answers have been read. It has occurred to me to look back to the former proceedings: it has escaped my attention if any matter contained in the seventeenth Article has been made matter of charge It, therefore, does not seem that it can be brought in upon a reply; not having been made matter of charge originally.

Argument of the Manager.

"*Mr. Burke.*—My Lords, I have to say to this, that I believe you have heard that it was made matter of charge by the House of Commons. I conceive that the fact is admitted; and that the Commons have nothing to do with the proofs of any things in their Charge which were fully and exactly in terms admitted. The proofs which they produce to your Lordships were upon matters which were litigated; but here the facts in the Charge are admitted in the fullest manner. We neither have abandoned them, intended to abandon them, nor ever shall abandon them. We have made them as a Charge upon record. We have read the answers to them; which answers are complete admissions of every word of the Charge.

"*Lord Chancellor.*—I do not make myself understood. It is not the objection, that there has not been evidence given upon the seventeenth Article; but that, at the close of the case on the part of the Managers for the House of Commons, no mention has been made of the matter contained in the seventeenth Article; therefore, although it may have all been admitted by the answer to be true, yet in justice, if from that answer you ground the Charge, it is necessary the Defendant should be heard to it.

"*Mr. Burke.*—If your Lordships choose that the Defendant shall be heard to it we have no kind of objection, nor ever had, or proposed an objection to the Defendant being heard to it. Your Lordships know that the Defendant's Counsel value themselves upon abandoning their defence. Your Lordships know perfectly that they broke off thus in the middle; and they have declared that in order to expedite this business they abandoned their defence.

Continued objection of the Court to the admission of the matter in question.

"*Lord Chancellor.*—Referring to the proceedings, [I think it] is a matter perfectly clear, that, in the course of the Charge, after certain Articles had been gone through, the Managers for the Commons closed the case there; leaving, therefore, all the other Articles, excepting those that had been discussed, as matters standing with the answers against them, but not insisted upon originally in making out the Charge. Of course, therefore, if the Defendant had gone into any of these Articles, the Defendant must have been stopped upon them; because he was then making a case in defence to that which had not been made a case in the prosecution. The objection, therefore, is not at all that no evidence has been examined. To be sure, it would be an answer to that to say, you are now proceeding upon an admission; but, even upon those facts that are admitted, if the facts that are admitted are insisted

Having first stated to your Lordships—and we beg to remind you of it—having mentioned the state and condition of the country of Oude when Mr. Hastings first came into it, 12 JUNE 1794.

Condition of Oude under the government of Mr. Hastings.

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upon as matter in charge, that should come in the original state of the cause, and the Defendant, in common justice, must be heard upon that; and then, and then only, come the observations in reply.

"*Mr. Burke.*—We do not know, or are informed, but that any charge, information or indictment, that is before the Court and upon record, and is not denied by the Defendant, stands in full force against him. We conceive it to be so. We conceive that to be agreeable to the analogy of all proceedings. And the reason we did not go into it was, that, having a very long cause before us, and having the most full and complete admission upon this subject, we did not proceed further in it. The Defendant defends himself [by averring]* that it was not his duty. It was not onr business to prove that it was his duty. It was he that admitted the facts assumed; the negative he was bound to prove, and he never offered to prove it.

"All that I can say upon this business is, that it appeared to ns to be a clear, distinct, case; to be a great offence—an offence charged upon the record, admitted upon the record, and never by us abandoned. And as to his defence not being abandoned, my Lords, we refer to the last petition that was upon your table—that libellous petition which we speak of as a libel and as a reflection upon the House of Commons, and which has no validity, but as asserting a matter of fact from the petitioner. We desire that you will refer to that paper, and there you will find that he has declared publicly, that, for the accommodation and ease of this business, and for its expedition, he did abandon his defence at a certain period.

"*Lord Chancellor.*—A charge consisting of a variety of Articles, in their nature, however connected with each other in their subject, but in their nature distinct and specific, if only certain Articles are pressed in the charge, to those Articles only can a defence be applied; and all the other Articles that are not made matter of charge originally have never, in the course of any proceeding whatever, been taken np originally ln reply.

"*Mr. Burke.*—With great respect to your Lordship's judgment, that may be upon the matter of arguing them, or making any observations upon them that might apply. You do not argue, yon do not make observations, at such a period. But the record stands; our Charge stands: it was never abandoned; and the Defendant might have made a justification to it, if he had thought fit. He never did think fit. If your Lordships think that we ought not to argue upon it here upon the reply, because we did not argue upon it before, well and good; but we have argued, and do argue, many things in the reply to which he never gave any answer at all. I shall beg leave, if yonr Lordships please, to retire with my fellow Managers for a moment, to consult how far we shall press this point,—whether we shall press this point or not. We shall not detain your Lordships many minutes.

"[*The Managers withdrew; in a few minutes, the Managers returned again into the Hall.*]

Retirement of the Managers for the purpose of consultation.

"*Mr. Burke.*—My Lords, the Managers have consulted among themselves upon this business; and therefore the first part they have taken upon themselves is, to see npon the face of yonr printed proceedings the particular circumstances on which the observation of your Lordship—I take it for granted the observation of this House by your mouth—was delivered. What we have found is this:—'Then the Managers for the Commons informed the Lords, that saving to themselves their undoubted rights and privileges, the Commons were content to rest their Charge here.'—We rested our Charge there; not

Reservation on the part of the Com-

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* Revised copy.

12 JUNE 1794. having stated the intermediate usurpation of Mr. Hastings, the use he made of it, upon the Nawab himself, the tyranny exercised on the Nawab himself, the tyranny exercised upon

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mons of the right to modify the charges.

that we meant to efface any precedent matter of the Charge which was made by us and admitted by them, but that we meant to rest it there, as we conceived, 'saving our rights and privileges;' that is, to resume—and to make new matter if we thought fit—to resume our rights and privileges. The Commons were content to rest the Charge here.

Introduction of irrelevant matter by Counsel.

"I am to remark to your Lordships, that the Counsel have opened a vast variety of matter that is neither upon our record nor theirs, in order to illustrate and to support; and they have spoken days together upon the subject of the principles upon which their defence was made; and my great object now is, an examination of those principles, and to illustrate the effects of those principles by examples, which are not the less cogent, the less weighty, and the less known, because they are Articles in this Charge. Most assuredly not. If your Lordships recollect the speeches that were made here, you find great merit taken to Mr. Hastings for matters that were not at all in the Charge, and which would put us under the greatest difficulties, if we were to take no notice of them in our reply. For instance, his whole merits in the Mahratta War were brought before your Lordships—a great mass of matter obliquely,—not for the avowed purpose, but for other purposes,—brought before you, upon which they argued. And that immense mass of matter contained an immense mass of principles; sometimes supported by alleged facts, sometimes by none. We are going to answer that explanatory matter relative to principle, which they have opened as matter relative to principle; and if we cannot do it in that way, we propose to do it in the other way; that is, we propose to show the mischiefs that have happened by the mischievous principles laid down by Mr. Hastings, and the mischievous consequences of them.

"If, however, your Lordships are of opinion—wishing to fall in with your Lordships' sentiments—if your Lordships, upon this explanation, continue to be of the same opinion, that we cannot even produce this regularly to you nor read it, we would remind your Lordships that such things stand upon your records; that they stand unanswered and admitted on your records; and consequently cannot be destroyed by any act of ours, but by a renunciation of the Charge; which renunciation we cannot make, because the Defendant has clearly and fully admitted it. We cannot plead error: we cannot retract it. Why? Because he has admitted it. We, therefore, only remind your Lordships that that matter stands uncontradicted; and the only observation we intended to make upon it to your Lordships is, that the principles upon which he defends all such conduct are totally false and groundless. But if your Lordships are of opinion that we cannot press it, though we cannot abandon it,—it is not in your power—it is not in our power—it is not in his power—to abandon that Charge:—you cannot acquit him of that Charge; it is impossible:—but if your Lordships, for the accommodation of business, method of proceedings, or any circumstance of that kind, wish we should say no more upon the subject, we close the subject there for ever; because we wish, and we cannot wish better than to leave it as it is upon the record. Your Lordships will consider, when you come to examine the mass of these Charges, whether it is in our power to abandon them; because we have made them, he has admitted them, and your Lordships are possessed of both the Charge and admission; but as to the rest, the mode of proceeding upon it, we are at your Lordships' disposal.

Opinion of the Court as to the inadmissibility of the

"*Lord Chancellor.*—It can only be with me matter of conjecture. I certainly was not commanded by the House to state the observations that had occurred to me upon that. But in the position in which it now stands, I feel no difficulty in saying, as my own judgment, that nothing can be matter in

his family, the tyranny exercised upon his women, the tyranny exercised—as we conceive and do not retract, though we cannot press now—upon his brethren,—having shown you how he has confiscated the property of all the principal nobility of the country, called the jagirdars, that he knew their distresses and afforded them no relief,—having gone upon all these grounds, we now proceed to review the effect of the general mass of all that usurpation, and of all that oppression, upon the state of the revenues and the prosperity of the country. 12 June 1794.

We are first going to show your Lordships in what state Mr. Hastings found the country; in what state he found its revenues; what ministers there were; what were their plans, and what their conduct was; and who they were recommended and supported by.

We shall first beg to refer your Lordships to the printed Minutes. Indeed, my Lords, this matter that is on your record never can be expunged out of the record and the memory of mankind, though we do not mean to press it more. One of them was a thing that we did press, but if we give up the whole family, we will not press for one. Hear what was the manner in which the government was carried on in Oude, and the state of it, on the 2d of March, 1775, before the period of Mr. Hastings' usurpation, in which he defied the orders of the Company and oppressed the people. This is to show that the minister, he stated, was recommended by the Begums; and the rather, because Mr. Hastings makes their interference in the government of her son a part of his crimination of them.

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reply that does not relate to those Articles that were pressed in the original Charge; and therefore, in this position of the business of reply, you cannot go into new matter arising out of other Articles that were not originally insisted upon. matter in question.

"*Mr. Burke.*—We thought as Articles that there might be a difficulty upon it, but not as an answer to other matter, as a reference to facts on the record before you, to disprove the principles upon which the Defendant and his Counsel go. That is the light in which we proposed chiefly to use it. But, as we said, your Lordship's own personal authority will have great weight with us, and unless we perceive some other Peer differs from you, we will take it in the course we have constantly done. We never have sent your Lordships out of the Hall to consult upon the matter. We take for granted that what is delivered from the woolsack, to which no Peer expresses a dissent, is the sense of the House. As such we take it, and as such we submit to it in this instance.

"Therefore, leaving this upon the record as it stands, without observing upon it, and submitting to your Lordships' decision, that according to order we cannot observe in reply upon what was not produced, but only set out, on the record in the first Charge,—we submit to your judgment upon that occasion, and we proceed to another business. Withdrawal of the objectionable matter.

12 JUNE 1794.

Recommendation on the part of the Begums of Elija Khan as minister, in 1775.

Letter from the Resident at the Court of Oude, the 2d of March, 1775; page 2682:—

"Notwithstanding the confidence the Nabob reposes in Murteza Khan, the Begums are much dissatisfied with his elevation. They recommended it to his Excellency to encourage the old servants of the Government, whose influence in the country and experience might have strengthened his own authority, and seated him firmly on the musnud. In some measure, too, this may appear consistent with the interests of the Company; for, as Ellege Khan and the old ministers have, by frequent instances within their own knowledge, experienced the power of our Government, such men, I should conceive, are much more likely to pay a deference to the Company than a person who at present can have but a very imperfect idea of the degree of attention which ought to be paid to our connection with the Nabob."

This Elija Khan is not our Elijah, but another; and your Lordships see that the Begums recommended the old servants, contrary to the maxim of Rehoboam,—those who had served his father, served the country, who knew it, and who were strongly inclined to support the English interest there. Making just that remark upon that minute—the effect of the Begum's influence upon the state of things in 1775—that the minister was advised by the Nawab's mother to employ the confidential servants of his father, conversant in the country, persons interested in it, and persons who were well disposed to support the English connection.

Letter from Mr. Bristow to the Board, 28th November, 1775; page 2691:—

Good effect of the dismissal of the mutinous troops.

"I also neglected no part of my duty on the spot, but advised the minister, even at Lucknow, according to my letter of the 3d instant, to recommend it to the Nabob to dismiss his useless and mutinous troops; which measure seems, by present appearances, to have succeeded beyond expectation, as the rest of the army do now pay the greatest attention to his Excellency's orders. Already the complaints of the violences the troops used to commit are greatly decreased. They profess obedience, and, by the best intelligence I can obtain of their disposition, there seems to be little doubt that the examples made by disbanding Bussunt's corps has every good effect we could wish, which had crossed the river and voluntarily surrendered their arms the day before yesterday to the Nabob."

Letter from Mr. Bristow to the Board, 13th June, 1776; page 2696:—

Success of Elija Khan's administration.

"Honourable Sir and Sirs,—It is Ellege Khan's first object to regulate the Vizier's revenue; and I must do him the justice to say that the short time he has been in office he has been indefatigable, and already settled the greater part of the province of Oude, and fixed on the districts for the assignments of the army subsidy. Corah and Allahabad he has disposed of, and called for the Dooab and Rohilkund accounts, in order to adjust them as soon as possible. This activity will, I hope, produce the most salutary effects; as the present juncture, being the commence-

ment of the season for the cultivation, the aumils, by being thus early fixed in their offices, have the opportunity of advancing tuckavy, encouraging the ryots, and making their agreements in their several districts, in letting under farms or disposing of the lands in such a manner as they may judge most expedient. If, though similar to the late minister's conduct, a delay of two or three months should occur in the settlement of the lands, the people throughout the county would be disheartened, and inevitably a very heavy balance accrue on the revenue. I have troubled the honourable Board with this detail, in the first place, to show the propriety of Elija Khan's conduct; and, in the next, the essential service that will be rendered to the Vizier by continuing Colonel Parker's detachment during the whole rains in Corah, if required by the Vizier." 12 JUNE 1794.

My Lords, we have now had a view of the previous state of Oude, at the first period we have to describe. Your Lordships have seen and understand part of the middle, with which we do not mean to trouble you again.

Letter of Fyzula Khan.

Letter from Fyzula Khan to the Governor General; received the 13th of February, 1778; in page 768 of the printed Minutes:—

Ruinous state of the country in 1778, under the system of Mr. Hastings.

"This county of Cutthar, which formerly depended on the Rohilla States, and which I consider as now appertaining to the Company, was very populous and flourishing; but, since the commencement of the Nabob Vizier's government, the farmers appointed by his ministers have desolated the country. Its situation is at present very ruinous. Thousands of villages, formerly populous, are now utterly deserted, and no trace left of them. I have already written to Roy Bucktawar Sing a full account of the tyranny and oppression exercised by the farmers, to be communicated to you. The constant revenue of a country depends on the care of its rulers to preserve it in a flourishing state. I have been induced to make the representation by my attachment to the interest of the Company, for otherwise it is no concern of mine. Should these oppressions continue one or two years longer, and the rulers take no measures to put a stop to them, the whole country will be a desert."

My Lords, I have only to remark to you this:—you have seen the first state of this country. This was about two years after Mr. Hastings had obtained the majority and began to govern this country by his lieutenants. This is the consequence of it. We know very well that the country was put under military collectors. We know the consequences of it. The person who makes this representation to Mr. Hastings of that state of the country, who makes a representation of its distress and calamity, of [the desolation of]* a thousand of the villages formerly flourishing in it, is no less a person than a person of whom you have often heard, and of whom humanity deserves a great deal, namely, Fyzula Khan, whose country the English Resident

* Revised copy.

12 JUNE 1794. travelling through declares was cultivated like a garden, and that that was the state of all the Rohilla country. He very fortunately was one of those that escaped the dominion of Mr. Hastings. We will now read to your Lordships a letter from Sir Eyre Coote to the Board, dated the 11th of September, 1779, which is in page 767 of the printed Minutes:—

Letter of Sir Eyre Coote.

"Honourable Sir and Sirs,—The day before yesterday I encamped near Allahabad, where the Vizier did me the honour of a visit; and yesterday morning in my way hither I returned it, and was received by his Excellency with every mark of respect and distinction. This morning he called here, and we had some general conversation, which principally turned upon the subject of his attachment to the English, and his readiness to show the sincerity of it upon all occasions. It is to be wished we had employed the influence which such favourable sentiments must have given us more to the benefit of the country and ourselves; but I fear the distresses which evidently appear on the face of the one and the failure of the revenues to the other are not to be wholly ascribed to the Vizier's mismanagement."

Continued distresses from 1779 to 1781.

This is the testimony of Mr. Hastings' own pensioner, Sir Eyre Coote. But that there can be but one voice, from the known state of that country during the time of this horrible usurpation, which Sir Eyre Coote puts under the soft name of our influence, [I will add a] minute of the Governor General's Consultation, Fort William, 21st May, 1781; page 103. These were Mr. Hastings' reasons for going up to Benares. We first produced Fyzula Khan's communications to Mr. Hastings; and no redress was given upon his representation—no redress was pretended to be given; next, the state of the country that is described by Sir Eyre Coote; now, the state of it as described by Mr. Hastings himself, as a reason to go up for the pretended reform of it:—

"The province of Oude having fallen into a state of great disorder and confusion, its resources being in an extraordinary degree diminished, and the Nabob Azoph-ul-Dowlah having earnestly entreated the presence of the Governor General, and declared that, unless some effectual measures are taken for his relief, he must be under the necessity of leaving his country, and coming down to Calcutta to present his situation to this Government;—the Governor General, therefore, proposes, with the concurrence of Mr. Wheler, to visit the province of Oude, as speedily as the affairs of the Presidency will admit; in hopes that, from a minute and personal observation of the circumstances of that country, the system of management which has been adopted, and the characters and conduct of the persons employed, he may possibly be able to concert and establish some plan by which the province of Oude may in time be restored to its former state of affluence, good order and prosperity."

Determination of Mr. Hastings to visit Oude.

Your Lordships will see now the chain of evidence, with regard to the state of the country at that period, complete.

You see that Mr. Hastings himself admits it to have been formerly in a most flourishing, orderly and prosperous, state. He describes it to you in [such] words, that no enemy of his can paint stronger the state in which it was. He went up in the year 1781; and he left it, with regard to any substantial regulation that was executed or could be executed, in the state in which it was; and he increased every one of those grievances which he pretended to redress. He took from it all the little resources that remained in it. And you have heard of the manner in which he treated all persons of that country; among others, the Nawab himself, who declared the situation of himself and his family to be such that he must fly out of his country and take refuge in Calcutta, if some order was not taken upon the occasion. 12 June 1794.

We will now show what the state of it was after Mr. Hastings went up, in 1781. We will trace the several steps of the state in which it was found, and in which it was acknowledged by Mr. Hastings to be; the state which Fyzula Khan represents of the part which he knew best, and which was nearest him;—and that was once the greatest and most populous part of that whole country;—then, Sir Eyre Coote; and, lastly, Mr. Hastings himself.

Now come the subsequent periods.

"Extract of a Letter from Mr. Bristow, 12th December, 1782; page 658:—

"Despotism is the principle upon which every measure is founded, and the people in the interior parts of the country are ruled at the discretion of the aumil or fowzdar for the time being. They exercise within the limits of their jurisdiction the powers of life and death, and decisions in civil and other cases, in the same extent as the sovereign at the capital. The forms prescribed by the ancient institutions of the Mogul Empire are unattended to, and the will of the provincial magistrate is the sole law of the people. The total relaxation of the Vizier's authority, his inattention and dislike to business, leave the aumils in possession of this dangerous power, unawed and uncontrolled by any apprehension of retrospection, or the interference of justice. I can hardly quote an instance, since the Vizier's accession to the musnud, of an aumil having been punished for oppression; though the complaints of the people and the state of the country are notorious proofs of the violences daily committed. It is even become unsafe for travellers to pass, except in large bodies. Murders, thefts, and other enormities shocking to humanity, are committed in open day."

Lawless condition of the country, after his return.

In another paragraph of the same letter, he says:—

"Such has been the system of this government, that the oppressions have generally originated with the aumils. They have been rarely selected for their abilities or integrity, but from favour, or the means to advance a large sum upon being appointed to their office. The aumil enters upon his trust ruined in reputation and fortune, and, unless he

Oppression by the amils.

12 June 1794. accomplishes his engagements, which is seldom the case, disgrace and punishment follow; and, though the balance of revenue may be rigorously demanded of him, it has not been usual to institute any inquiry for oppression. The zemindars, thus left at the mercy of the aumils, are often driven to rebellion. The weak are obliged to submit to his exactions or fly the country; and the aumil, unable to reduce the more powerful, is compelled to enter into a disgraceful compromise. Every zemindar looks to his fort for protection, and the country is crowded with them. Almas Ali Khan has not less than seven hundred in his districts. Thus it has become a general custom to seize the brother, son, or some near relation or dependent, of the different zemindars as hostages for the security of the revenue. A great aumil will sometimes have three or four hundred of these hostages, whom he is obliged to confine in places of security. A few men, like Almas Ali Khan and Coja Din-ul-Dun have, from their regularity in performance of pecuniary engagements, rendered themselves useful to the Vizier. A strict scrutiny into his affairs was at all times irksome to his excellency; and none of his ministers or officers about his person possessing the active, persevering, spirit, requisite to conduct the detail of engagements for a number of small farms, it became convenient to receive a large sum from a great farmer, without trouble or deficiency. This system was followed by the most pernicious consequences. These men were above all control. They exacted their own terms, and the districts they farmed were most cruelly oppressed. The revenue of Rohilcund is reduced above a third; and Almas Ali Khan's administration is well known to have been extremely violent."

Annihilation of the Nawab's authority.

I do not know that it is necessary to make any observation upon this state of things. You see that the native authority, as we proved before, was utterly extinguished by Mr. Hastings; that the Nawab was nothing but a name; that there was no authority but his. You hear of the oppressions of the farmers; and we have shown you that the farmers-general were English officers. We have shown you what Colonel Hannay did. We have shown you the accumulation of hostages which were made by him, when he was sent by Mr. Hastings; and you hear of their arbitrary power and tyrannical proceedings. And, above all, you see the last and most dreadful effects of anarchy—that there was no security to any human being but to entrench himself in such a fort as he could make; and that these forts had grown, in one district only of that country, to amount to seven hundred. Your Lordships know Colonel Hannay had his prisons all full; and, when he had not prisons and mud forts sufficient to lock up these hostages in, he had them in open cages in the open air. You hear now that these farmers-general were either English themselves and military men, or under an abject submission to them. You know they had the whole country in assignments. You find that the jagirs were all confiscated for their benefit. You

Extortions of the farmers-general.

find the whole system had its origin at the time of Mr. Hastings' majority. The weakness of the Nawab, as Sir Eyre Coote tells you, could not be alone the cause of it; but that our influence was the principal cause of the utter ruin, desolation and anarchy, of that country. And let not the usurpation of the Nawab's power be considered as a trivial thing. When any prince, at the head of a great country, is entirely stripped of everything in his government which, in a civil or military light, could obtain to him great honour, he becomes a mere animal, and abandons himself to sensual gratification; he has no other object; and every person in an inferior situation wastes and destroys the country. You hear that all the laudable institutions—and such there were—for the good order and government of that country were totally gone; that the very appearance of justice was banished out of it; and every aumil exercised an arbitrary power over the lives and fortunes of the people. That is the state of it. I do not know how I can state anything stronger than the paper itself; but we have our documents in our hand, and, at the same time, we do not so far forget our duty as not to point out to your Lordships such observations as arise upon them. We will read to your Lordships an extract from Captain Edwards' evidence, which is in page 777 of your Lordships' Minutes:— 12 June 1794.

"Had you any opportunity of observing the general face of the country in the time of Sujah Dowlah?"—"I had." "Did you remark any difference in the general state of the country at that time and the period when you made your latter observation? Did you observe any difference between the condition of the country at that time and that of Sujah Dowlah, in the year 1774,—the latter period you have mentioned?"—"I did; a very material difference." "In what respect?"—"In the general aspect that the country bore, and the cultivation of the country; that it was infinitely better cultivated in 1774 than it was in 1783." "You said, you had no opportunity of observing the face of the country till you were appointed *aide-de-camp* to the Nabob?"—"No; except by marching and countermarching. I marched in the year 1774 through the Nabob Sujah-ul-Dowlah's provinces into Rohilchund." "Had you those opportunities from the time of your going there in 1774?"—"I had, but not so much as I had after being appointed *aide-de-camp* to the Vizier, because I was always before in a subordinate situation. I marched in a direct line before with the troops; but afterwards, when I was *aide-de-camp* to His Excellency, I was my own master, and made frequent excursions into the different parts of the country." "Had you an opportunity of observing the difference in the general happiness and disposition of the people?"—"I had." "Did you observe a difference, in that respect also, between your first coming and the year 1783?"—"Yes; a very sensible difference. In Sujah-ul-Dowlah's time the country was in a very flourishing state in merchandize, cultivation, and every article of commerce, and the people then seemed to be very happy under his Government, Evidence of Capt. Edwards.

12 JUNE 1794.

which latterly was not the case, because the country in reality appeared, in the year 1774, in a flourishing state, and, in the year 1783, it appeared comparatively forlorn and desolate." "Was the court of Azoph-ul-Dowlah, when you left India, equal in point of splendour to what it was in the time of Sujah-ul-Dowlah?"—"By no means. It was not equally splendid, but far inferior." "Were the dependents and officers belonging to the court paid in the same punctual manner?"—"No; I really cannot say whether they were paid more regularly in Sujah-ul-Dowlah's time; only they appeared more wealthy, and more able to live in a splendid style, in his time, than they ever have done since his death."

Here your Lordships see the state of the country.

Now let us see what the state of the Wazir was, and his sense of the indignities and calamities that he suffered; and then we shall refer you to a very curious and extraordinary paper, which is upon your Minutes. There is another passage in an extract of a letter from the Governor General to the court of Directors, dated Benares, October 1784; page 660 of your Lordships' Minutes. Your Lordships trace the whole progress, from the death of Suja-ud-Dowla to the time when Mr. Hastings' obtained a majority. You see the consequences immediately following Mr. Hastings' majority; and we trace it down step by step to the year 1784, when he went up into the country again:—

Letter of Mr. Hastings to the court of Directors, on the policy to be observed with respect to Oude.

"My only remaining fear is, that the members of the Council, seeing affairs through a different medium from that through which I view them, may be disposed, if not to counteract the system which I have formed, to withhold from it their countenance and active support. While I myself remain, it will be sufficient if they permit it to operate without interruption; and I almost hope, in the event of a new administration of your affairs, which shall confine itself to the same forbearance, and manifest no symptoms of intended interference, the objects of my arrangements will be effectually attained; for I leave them in the charge of agents whose interests, ambition, and every prospect of life are interwoven with their success; and the hand of Heaven has visibly blessed the soil with every elementary source of progressive vegetation. But if a different policy should be adopted, if new agents are sent into the country, and armed with authority for the purpose of vengeance or corruption, to no other will they be applied. If new demands are raised on the Nabob Vizier, and accounts overcharged on one side, with a wide latitude taken on the other, to swell his debt beyond the means of payment, if political dangers are pretended, to ground on them the pleas of burthening his country with unnecessary defences and enormous subsidies, or if even, abstaining from direct encroachment on the Nawab's rights, your Government shall show but a degree of personal kindness to the partizans of the late usurpation, or, by any constructive indication of partiality and disaffection, furnish grounds for the expectation of an approaching change of system, I am sorry to say that all my labours will prove abortive; for the slightest causes will be sufficient to deject minds sore with the remembrance of past conflicts, and to elevate those whose only dependence is placed in the renewal of the confusion which I have laboured with such zeal to eradicate, and will of course debilitate the

authority which can alone ensure future success. I almost fear that this denunciation of effects from causes so incompetent, as they will appear to those who have not had the experience which I have had of the quick sensibility which influences the habits of men placed in a state of polity so loose, and subject to the continual variations of capricious and despotic authority, will be deemed overcharged, or, perhaps, void of foundation; nor, if they should come to pass, will it be easy to trace them with any positive evidence of their connection. Yet it is my duty to apprize you of what I apprehend, on grounds which I deem of absolute certainty, may come to pass; and I rely on your candour for a fair interpretation of my intention." 12 JUNE 1794.

He does exactly what his bitterest accuser would do. He goes through, head by head, every one of the measures he pursued for the destruction of the country; and he foretells that, if any one of those measures should not only be renewed, but if good cause should be given to suspect they would be renewed, the country must fall into a state of inevitable destruction. This supersedes all observation. This paper is a recapitulated minute condemnation of every step which he took in that country; and which steps are every one of them upon your Lordships' Minutes. *Its condemnation of his own system.*

We know very well, that, when he pretended to leave that country in the state that he spoke of, he left a secret agent of his own to control that Government, and to enable him, sitting in the place where he now sits, to govern it in the way in which he now governs it. *His appointment of a secret agent.*

[*A murmur having arisen here, Mr. Burke proceeded*]*:—

If I am called upon to re-word that, I shall show strong grounds and reasons to indicate that he governs Oude now as much as he ever did. We see that the reform which he pretended, in 1781, produced the calamities which he states in 1784. We shall now see that the reform which he pretended in 1784 brought on the calamities which Lord Cornwallis has stated in his evidence.

We will now read a letter from Lord Cornwallis, dated 16th November 1787, which is in page 661 of your Lordships' Minutes:— *Letters of Lord Cornwallis.*

"I was received at Allahabad and attended to Lucknow by the Nabob and his ministers, with every mark of friendship and respect. I cannot, however, express how much I was concerned, during my short residence at his capital and my progress through his dominions, to be witness of the disordered state of his finances and government, and of the desolate appearance of his country. The evils were too alarming to admit of palliation, and I thought it my duty to exhort him, in the most friendly manner, to endeavour to apply effectual remedies to them. He began

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* Revised copy.

12 June 1794.

Continued embarrassment of the Nawab.

with urging as apology, that, whilst he was not certain of the expense of our demands upon him, he had no real interest in being economical in his expenses; and that, while we interfered in the internal management of his affairs, his own authority and that of his ministers were despised by his own subjects. It would have been useless to discuss these topics with him, but, while I repeated my former declarations of our being determined to give no ground in future for similar complaints, he gave me the strongest assurances of his being resolved to apply himself earnestly to the encouragement of agriculture, and to endeavour to revive the commerce of his country."

Letter from Lord Cornwallis, dated the 25th April 1788; page 662:—

"Till I saw the Vizier's troops, I was not without hope that, upon an emergency, he would have been able to have furnished us with some useful cavalry; but I have no reason to believe that he has any in his service upon which it would be prudent to place any dependence; and I think it right to add, that his country appears to be in so ruined a state, and his finances in so much disorder, that, even in case of a war, we ought not to depend upon any material support from him."

Maladministration of Hyder Beg Khan.

My Lords, I am to remark only upon this as to the effect of Mr. Hastings' reformation, from which he was pleased to promise the Company such things. But, when your Lordships know that he left his dependant and minister, Hyder Beg Khan, there, whose character he has represented on your Minutes as black as hell could make it, to be the real governor there, and to carry on private correspondences with him here, and left Major Palmer for a considerable time in that country to carry on his affairs, your Lordships will easily see why the Wazir, such an undone man, was not alone able, with such a minister as Hyder Beg Khan, to restore his country. You have seen it from the beginning; you have had evidence of what it was in Suja-ud-Dowla's time; and we now have concluded with the situation it was in when Lord Cornwallis left it.

Personal outrages endured by the Nawab.

We shall now show the complaints the Wazir makes of the personal outrages and ill treatment of Mr. Hastings to himself. We read yesterday a letter, the humble and abject style of which you can never consider enough. Consider, oh! my Lords, the fate of all human greatness. You remember there is no trace anywhere, in any trunk, of Mr. Hastings having condescended so much as to give an answer to the suppliant letter of that unhappy man. There was no mode of indignity with which he did not treat his family. There was no mode of indignity with which he did not treat his person. There was no mode of indignity with which he did not treat his minister, Hyder Beg Khan;

whom he represents as the most infamous and scandalous of men, while, at the same time, he declares that his only support with the Wazir was the support which he, Warren Hastings, as representing the English Government, gave him. 12 June 1794.

Letter from the Nawab Wazir, received the 24th of February, 1780; page 542 of the printed Minutes:— His letter of remonstrance.

"I have received your letter, and understand the contents. I cannot describe the solidity of your friendship and the brotherly affection which subsisted between you and my late father. From the friendship of the Company he received numberless advantages, and I, notwithstanding I was left an orphan, from your favour and that of the Company was perfectly at ease; being satisfied that everything would be well, and that I should continue in the same security that I was during my father's lifetime, from your protection. I accordingly, from the day of his death, have never omitted to cultivate your favour and the protection of the Company; and whatever was the desire and direction of the Council at that time, I have ever since conformed to and obeyed with readiness. Thanks be given to God, that I have never as yet been backward in performing the will of the English Company, of the Council, and of you, and have always been from my heart ready to obey them, and have never given you any trouble from my difficulties or wishes. This I have done simply from my knowledge of your favour towards me, and from my being certain that you would learn the particulars of my distresses from other quarters, and would then show your friendship and good will in whatever was for my advantage. But when the knife had penetrated to the bone, and I was surrounded with such heavy distresses that I could no longer live in expectation, I then wrote an account of my difficulties. The answer which I have received to it is such that it has given me inexpressible grief and affliction. I never had the least idea or expectation from you and the Council that you would ever have given your orders in so afflicting a manner, in which you never before wrote, and which I could not have imagined. As I am resolved to obey the orders and directions of the Council, without any delay, as long as I live, I have agreeably to those orders delivered up all my private papers to him, that when he shall have examined my receipts and expenses he may take whatever remains. As I know it to be my duty to satisfy you, the Company, and Council, I have not failed to obey in any instance, but requested of him that it might be done so as not to distress me in my necessary expenses; there being no other fund but those for the expenses of mutseddies, household expenses, and servants, &c., &c. He demanded these in such a manner that, being remediless, I was obliged to comply with what he required. He has accordingly stopped the pensions of my old servants of thirty years, whether sepoys, mutseddies, or household servants, and the expenses of my family and kitchen, together with the jaghires of my grandmother, mother, and aunts, and of my brothers and dependents, which were for their support. I had raised 1,500 horse and three battalions of sepoys to attend upon me; but, as I have no resources to support them, I have been obliged to remove the people stationed in the mahals, and to send his people into the mahals; so that I have not now one single servant about me. Should I mention what further difficulties I have been reduced to, it would lay me open to contempt. Although I have willingly assented to this which

12 June 1794. brings such distress on me, and have in a manner altogether ruined myself, yet I failed not to do it for this reason,—because it was for your satisfaction and that of the Council; and I am patient, and even thankful in this condition. But I cannot imagine for what cause you have conceived displeasure against me, from the commencement of my administration. In every circumstance I received strength and security from your favour and that of the Council, and in every circumstance you and the Council have shown your friendship and affection for me; but at present, that you have sent these orders, I am greatly perplexed."

We will not trouble your Lordships with the remainder of the letter, which is all in the same style of distress and affliction, of a man who considers himself as a miserable dependant, and insulted, robbed and ruined, in that dependence. We will next read a paper which ought not to have been received, perhaps, in evidence, but which we were willing should be received, in order that everything should come before you. Your Lordships have heard the Nawab speak of his misery, distress and oppression; but here he makes a complete defeasance of every one complaint;—particularly of his making these complaints and never receiving an answer. Think, my Lords, of the degraded, miserable and unhappy, state of human nature, when you hear this unhappy man declare that all the charges which we have made upon this subject relative to him, and which are all admitted by him,—that you have it stated in a paper before you that they are all false, and that there is not a word of representation he has there made of Mr. Hastings which has the least truth in it! Your Lordships will find it in page 2,357 of your Minutes, in that curious collection of papers which ought to be preserved and put into every museum in Europe, as one of the most curious performances that ever has been exhibited in the world:—

His abject denial of his own statements.

His testimonial to Mr. Hastings.

"Papers received the 8th of March, 1788; and translated pursuant to an order of the Governor General in Council, dated the 27th of April, 1788; under the seal of His Excellency the Nawaub Azoph-ul-Dowlah, Azoph Jeh Bchadar, Vizier-ul-Momalik, marked K:—

"I have at this time learned that the gentlemen in power in England, upon the suspicion that Mr. Hastings during his administration acted contrary to the rules of justice and impartiality, and, actuated by motives of avidity, was inimical towards men without cause; that he broke such engagements and treaties as have been made between the Company and other chiefs; that he extended the hand of oppression over the properties of men, tore up the roots of security and prosperity from the land, and rendered the ryots and subjects destitute, by force and extortion. As this accusation, in fact, is destitute of uprightness and void of truth, therefore, with a view to show the truth in its true colours, I have written upon this sheet with truth and sincerity, to serve as an evidence, and to represent real facts; to serve also as information and communication

that Mr. Hastings, from the commencement of his administration until his departure for England,—whether during the lifetime of the deceased Nawaub, of blessed memory, Vizier-ul-Moulk, Sujah-ul-Dowlah Behadar, my father, or during my government,—did not at any time transact contrary to justice any matter which took place, from the great friendship between me and the Company, nor in any business depart from the path of truth and uprightness; but cultivated friendship with integrity and sincerity, and in every respect engaged himself in the duties of friendship with me, my ministers and confidants. I am at all times and in every way pleased with, and thankful for, his friendly manners and qualities; and my ministers and confidants, who have always every one of them been satisfied with his conduct, are for ever grateful for his friendship, and thankful for his virtues. As these matters are real facts and according to truth, I have written these lines as an evidence; and transmit this paper to England through the Government of Calcutta, for the information of the gentlemen of power and rank in England." 12 June 179

This, my Lords, is not only a direct contradiction to all that he has ever said—to all that has ever been proved to you—but a direct contradiction to all the representations of Mr. Hastings himself. Your Lordships will see what authority is to be given to these papers. But we cause it now to be read, because when it was entered it was not read; but it is a paper worthy to be held in everlasting remembrance. Hyder Beg Khan is upon your Minutes represented, your Lordships will see, as the worst of mankind. He is represented as writing letters without the Nawab's consent, in defiance of him. Mr. Hastings there says that the Nawab is nothing but a tool in his hands; that this man is, and ever must be, a tool of somebody or other; that he is a tool in the hands of Hyder Beg Khan. Now, as we have heard the tool speak, let us hear how the workman employed to work with this tool speaks. Hear the character Hyder Beg Khan gives Mr. Hastings, whom he considered before as a person who had loaded him, as he did, with every kind of indignity, reproach and outrage, with which a man can be loaded. [The Wazir had said]:—" As the accusation, in fact, is destitute of uprightness and void of truth"—observe, my Lords, the candour of the Commons. We produce this evidence which accuses us, as Mr. Hastings does, of uttering every word that is false. We choose to bring our shame to the world;—that this man, in whose place and concerning whose country we have accused Mr. Hastings, has declared that this accusation—namely, this impeachment—is destitute of uprightness and without truth:—" therefore, with a view to show the truth in its true colours, I have written upon this sheet, with truth and sincerity, that Mr. Hastings, from the commencement of his administration until his departure for England,

Its incompatibility with the admissions of Mr. Hastings.

12 June 1794. whether, during the lifetime of the deceased Nawaub, of blessed memory, Vizier-ul-Moulk, Sujah-ul-Dowlah Behadar, did not at any time transact contrary to justice any matter which took place, from the great friendship between me and the Company; nor in any business did he depart from the path of truth and uprightness; but cultivated friendship with integrity and sincerity, and in every respect engaged himself in the duties of friendship with me, my ministers and confidants. I am at all times and in every way pleased with and thankful for his friendly manners and qualities; and my ministers and confidants, who have always every one of them been satisfied with his conduct, are for ever grateful for his friendship, and thankful for his virtues. As these matters are real facts and according to truth, I have written these lines as an evidence; and transmit this paper to England through the government of Calcutta, for the information of the gentlemen of power and rank in England."

Now your Lordships will see that this is repeated, almost word for word; which shows who the writer is:—

Testimonial of Hyder Beg Khan.

"It is at this time learnt by the Nawaub Vizier and us his ministers that the gentlemen of power in England are displeased with Mr. Hastings, on the suspicion that, during his administration in this country, from motives of avidity, he committed oppressions contrary to the rules of justice, took the properties of men by deceit and force, injured the ryots and subjects, and rendered the country destitute and ruined. As the true and upright disposition of Mr. Hastings is in every respect free of this suspicion, we therefore, with truth and sincerity declare, by these lines written according to fact, that Mr. Hastings, from the first of his appointment to the government of this country until his departure for Europe, during his authority in the management of the affairs of the country,—whether in the lifetime of the Nawaub Sujah-ul-Dowlah Behadar, deceased, or whether during the present reign,—did not in any matters, which took place from the great friendship between this Government and the Company, act in anywise upon motives of avidity; and, not having in any respect other than justice and propriety in intention, did not swerve from their rules. He kept His Excellency the Vizier always pleased and satisfied"—

you remember the last expressions of his pleasure and satisfaction!

"by his friendship and attention in every matter."—

Vide his complaint of never answering his letter!

"He at all times showed favour and kindness towards us, the ministers of this Government; and, under his protection, having enjoyed perfect happiness and comfort, we are from our hearts satisfied with, and grateful for, his benevolence and goodness."

My Lords, it is said that there is no word in the Persian

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language to express gratitude; but let it now be put into the dictionary. Mr. Hastings says he has had the pleasure to find from the people of India that gratitude which from his own countrymen, the House of Commons, he has not been able to find. Certainly, if he has done us services, we have been ungrateful indeed;—if he has committed very enormous crimes, we are just. See the miserable, dependent, situation to which these people are reduced;—that they are not ashamed to come forward and deny everything they have given under their own hand. All these things show the portentous nature of this government; they show the portentous nature of that phalanx with which the House of Commons is at present at war; the power of that captain-general of every species of Indian iniquity, which, under him, is embodied, arrayed and paid, from Leadenhall Street to the furthest part of India. They have made such representations of a country directly in contradiction to their own—directly in contradiction to those of Mr. Hastings himself—directly in contradiction to those of Lord Cornwallis—directly in contradiction to truth itself. After all, is there not one observation to be made upon all this kind of miserable testimonials? Here is Mr. Hastings with his agents canvassing the country, with all that minuteness with which an election is canvassed, and, during all that time, not one word of fact, in this whole book of razinamas, is endeavoured to be contradicted on one side, or endeavoured to be established on the other. There is nothing but rude, vile, panegyrics, directly belied by the state of facts, directly belied by the persons themselves, directly belied by Mr. Hastings at your bar, and by all the course of the correspondence of the country.

Pernicious influence of Mr. Hastings.

Nature of the testimony adduced on his behalf.

Your Lordships see, from the time he began with it to the time of Lord Cornwallis, what a condition he left it in. We have dwelt upon particular subjects of grievance, on account of their rank and the violations that were offered to them; but your Lordships will consider the desolations of that bleeding country, as Lord Cornwallis has described it. Consider the condition of the country gentlemen, who were obliged to hide themselves from the robbers he established in every part, wherever they could hide their heads. Consider the miserable common people, who have been obliged to sell their children, from famine. Consider the state of facts transmitted by Mr. Hastings, in a letter from Mr. Bristow, by his own authority. When you hear these things, consider the great—consider the middling—consider the small—con-

12 JUNE 1794. sider the very physical works of God, desolated and destroyed by this man!

Mr. Hastings' government of Bengal.

Now, having finished with the province of Oude, we proceed to the province of Bengal, and consider what his government was there, and how it affected the people that were concerned in it.

Social systems of Bengal.

The Mohammedan.

Bengal, like every part of India subject to the British empire, contains three systems of people. The first system is the Mohammedans, who, about seven hundred years ago, obtained a footing in that country, and ever since have, in a great degree, remained masters of it: I mean long before the foundation of the Bengal empire there was overturned by Tamerlane. But there it was; so that the people who are sometimes represented loosely as strangers are people of a long, ancient and considerable, settlement in that country; and though, like every other body of Mohammedans, fallen into decay, are, from various parts of Tartary under the Mogul empire, and various parts of Persia, continually recruited. But they are the leading, the first people; and so we found them. These people follow no occupations, for the most part. They follow no trades; their religion and the laws forbid them in the strictest manner usury, or profit arising from money in the way of lending. All these people have no other means for their support but their adherence to the Mogul or his Viceroys; deriving under the Mogul the employments in courts, civil employments, and employments in the army. And, accordingly, a prodigious number of people, almost all of them of the most respectable families in the country—for I consider a settlement of seven or eight hundred years as the original settlement of the country—cling to the subahdar. Therefore those who destroyed and robbed the subahdar robbed and destroyed an immense mass of people. It is true, a supervening government established upon another always reduces a great body of people to want. You must distress, by the very nature of the circumstances of the case, a prodigious number of people. But then it is your business, when, by the nature of the superiority you have acquired—however you have acquired it, for I am not now considering whether you have acquired it by fraud or force, or whether by a mixture of both—when you have acquired it, it is your business not to oppress that people with new and additional difficulties, but rather to console them in the state in which they are, and give them all the assistance in your power.

The next great body are the natives, represented by the great lords of the country; many of them existed like lords of a manor. The first comprehends the official interest, the judicial interest, the court interest, and the military interest. This description takes in almost the whole landed interest in that country. Then they take in almost the whole monied interest of that country; for, not being forbidden by their laws and tenets according to the distinctions observed in the Shaster, many of them are money lenders, dealers and bankers; and they form the greatest part both of the landed and monied interest in that country. 12 JUNE 1794. The Hindu.

The third and last interest is the English interest, which, in reality, whether it appears directly or indirectly, is the governing interest of the whole country—the civil interest, the military interest, the revenue interest; and is, what to us is the greatest concern of all, the responsible part of the interests and of the government of that country to the Government of Great Britain. That is divided into two parts; one emanating from the Company, and afterwards regulated by Act of Parliament; the other, a judicial body sent out from the Crown itself. The body of the English interest are called servants of the Company. They enter into it, as your Lordships know, at an early period of life, and they are promoted according as their merit or their interest may provide for them. That forms a class which is infinitely small—scarcely to be mentioned; but, from some circumstances, they are enabled to govern that immense mass and body. But the chief circumstance by which they are enabled to govern it is, by having the public revenues and the public purse entirely in their own hands, and having an army armed and maintained by that purse, and disciplined in the European manner. That is the manner in which that country stands, and stood when Mr. Hastings was appointed to the government in 1772; and therefore we shall proceed to show how he has comported himself with regard to all these three interests:—first, to make the ancient Mohammedan families as easy as he could; next, to make the zamindars as secure in their property and as easy in their tenure as he could; and, lastly, to make the English interest a blessing to the country, and, at the same time that it provided moderate, safe, proper and allowable, emoluments to the persons that were concerned in it, to keep them from a general waste, ravage and rapine, of the country;—to make all these three interests pursue that one object which The English. Duty of a governor in relation to the three interests.

12 JUNE 1794. all interests and all governments ought to pursue—the advantage of the people under them.

Position of the Mohammedan Government.

My Lords, we have proved to you that one of his first oppressions was upon the Mohammedan government. That government had been before, not only in name but in effect, almost to that very time he came to handle it, the real government of the country. [After the Company had acquired its right over it]* it preserved some shadow of it; and there was an allowance given for the subahdar's court, which amounted to between 400,000*l.* and 500,000*l.* a year, for the support of his dignity; in which support of dignity was comprehended the whole mass of nobility, the soldiers serving or retired, all the mass of courtiers, all the women that depended upon them, the whole body of criminal law of the country, and a very considerable part of the civil law and the civil government.

The Company never had—and it is a thing that we can never too often repeat to your Lordships—the Company never had despotic power in that country by right. The Mogul, who gave them their charters, could not give them such a power. He did not *de facto* give them such a power. The Government of this country, by Act of Parliament, and the Company, by their delegation, did not give him such a power. The Act did not give him such a power. If he had it, he usurped it. And therefore at every step we take in the examination of his conduct in Bengal, as at every step we take everywhere else, we require him to justify his conduct by the laws. If we state a departure from the law, he must state an exigency as clear, as pressing and as forcible, as the law itself. That is the rule upon which he is to be tried.

Political division of the country.

That country, by the ancient constitution of the Mogul empire, besides the numberless individual checks and counterchecks in the inferior officers, is divided into the viceroyal part and the subahdary part. The viceroyal part takes in all criminal justice and political government. The country was under a viceroy, governing according to law, acting by proper judges and magistrates under him; being, not the judicial, but the executive power of the country—that which sets all the others on foot, and does not supersede them or supply their places. The other power, the subahdary power, was by a grant of the diwani, a grant of the office of Lord High Steward of the country, under whose care are the

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* Revised copy.

revenues, as much of the civil government as is concerned with the revenues, and many of the things that grow out of that [conferred upon the Company].* These two offices are co-ordinate, and dependent on each other. The Company, after contracting to keep an army upon it, got the whole revenue in their power. After they kept an army, the subahdar by degrees vanished into an empty name. 12 JUNE 1794. Gradual increase of the Company's power.

When we took the country, conscious that we had undertaken a task which we were unable to perform in any proper or rational way, we appointed a native of the country, Mohammed Reza Khan, who stands upon the records of the Company, I venture to say, with such a character as no man ever did, perhaps, stand. He filled both offices. Upon the expulsion of Cossim Ali Khan and the death of [Mir Jaffier], all his children were left in a young, feeble and unprotected, state; and, in that state of things, Lord Clive, Mr. Sumner, who sits near Mr. Hastings, and other gentlemen, wisely appointed Mohammed Reza Khan to fill the two offices, namely, that of deputy viceroy or naib subahdar, and deputy diwan, as representing the Company, and accordingly under his care and management; for which he had immense profits, great jagirs and revenues, I own. Appointment of Mohammed Reza Khan to the offices of Deputy Viceroy and Deputy Diwan.

He was a man of that dignity, rank and consideration, and knowledge of law and knowledge of business, that Lord Clive and Mr. Sumner, who examined his conduct at that time, did not think that 112,000*l.* which he had originally was a great deal too much for him; but, at his own desire, in order that these emoluments might be brought to stated and fixed sums, they reduced it to 90,000*l.* That was sufficient to preserve the state of so great a magistrate, and a man of such rank, exercising such great employments. The whole Company's revenues depended upon it; and you will find that, on the day in which he surrendered the revenues into our hands, the diwani under his management was a million more than it produced on the day Mr. Hastings left it; for which I refer to the letter of the Company, sent at the time of the establishment of the Board of Control. The letter they wrote upon that occasion is not in evidence before your Lordships, and what I am stating is historical and preliminary; but, at the same time, with as much precision and exactness as I should do everything in history, and with as His prosperous administration.

* Revised copy.

12 JUNE 1794. much power of referring to the documents as if the matter was absolutely in evidence before your Lordships. I state this, therefore, as every word to be verified by the records of the Company.

His alleged misconduct.

And now I am to state that this man, by some account, true or false, was supposed to have misconducted himself in a time of great calamity in that country—a great and violent famine, which did infinite mischief through the whole province of Bengal. By the way, these kind of countries are liable to these calamities: but it is greatly blessed by nature, if the Government does not counteract it. Nature, who has inflicted the calamity, soon after heals the wound. It is a most fertile country, inhabited by the most industrious people, and the most disposed to marriage and settlement, probably, that exist in the whole world; so that population, industry and fertility, are sooner resumed there than in any country in the world.

At the time of this famine, Mohammed Reza Khan, by means of Nundcomar, some faction of the English, or some other means, was accused of being one of the causes of this famine. He gave an answer to this, which was all sufficient; namely, that he was under the direction of the English Board, and they might have known it. The Company sent an order to have him tried. Mr. Hastings had him in prison nearly two years; and, when he frequently supplicated to have his trial come on, and either to be discharged, acquitted, or to be condemned, Mr. Hastings wrote word to the Directors, that he himself was not desirous much to hasten the matter. And, accordingly, for this inquiry into his conduct upon a point or two—a question of supposed fraud in the revenue, and a question about exercising [his power] in a place called Moorshedabad—he was kept in this miserable condition. In the mean time the Court of Directors, having removed him from these great offices, authorised and commanded Mr. Hastings—and now we come within the sphere of your Minutes—they authorised and commanded Mr. Hastings to appoint a successor to Mohammed Reza Khan, fit to fulfil his duties. Now I shall show you what persons the court of Directors described to him as fit to fill the office of Mohammed Reza Khan. You see the persons whom he did appoint, and then we will trace to you the consequences of that proceeding.

His imprisonment by Mr. Hastings.

Letter from the court of Directors to the President and

Council at Fort William, dated 28th August, 1771; page 973 of your Lordships' Minutes:— 12 JUNE 1794.

Order of the Directors for the appointment of his successor.

"Though we have not a doubt but that, by the exertion of your abilities, and the care and assiduity of our servants in the superintendency of the revenues, the collections will be conducted with more advantage to the Company and ease to the natives than by means of a Naib Dewan, we are fully sensible of the expediency of supporting some ostensible minister in the Company's interest at the Nabob's Court, to transact the political affairs of the Sircar, and interpose between the Company and the subjects of any European power, in all cases wherein they may thwart our interest or encroach on our authority; and as Mahomed Reza Khan can no longer be considered by us as one to whom such a power can safely be committed, we trust to your local knowledge the selection of some person well qualified for the affairs of Government, and of whose attachment to the Company you shall be well assured. Such person you will recommend to the Nabob to succeed Mahomed Reza as minister of of the Government and guardian of the Nabob's minority: and we persuade ourselves that the Nabob will pay such regard to your recommendation as to invest him with the necessary power and authority.

"As the advantages which the Company may receive from the appointment of such a minister will depend on his readiness to promote our views and advance our interest, we are willing to allow him so liberal a gratification as may excite his zeal and secure his attachment to the Company. We, therefore, empower you to grant to the person whom you shall think worthy of this trust, an annual allowance not exceeding three lacks of rupees, which we consider not only as a munificent reward for any services he shall render the Company, but sufficient to enable him to support his station with suitable rank and dignity. And here we must add, that, in the choice you shall make of a person to be the active minister of the Nabob's government, we hope and trust that you will show yourselves worthy of the confidence we have placed in you, by being actuated therein by no other motives than those of the public good, and the safety and interest of the Company."

Importance of the office.

Here was a person that was to be named fit to supply the office and place of Mohammed Reza Khan, who was deputy viceroy, at the head of the criminal justice, at the head of the whole ostensible Mohammedan government,—and to supply the place of Naib Diwan; that if [Mohammed Reza Khan]* was to be removed from the place of Naib Diwan he was to be—for you always observe they talk of a man fit to succeed Mohammed Reza Khan—a man fit to perform all the duties of Mohammed Reza Khan, whether they were made more or whether they were made less. He was to succeed him as guardian of the Nawab's person, and as representative of his authority and government.

Mr. Hastings having got this direction from the court of Directors—which probably he will say was no command, though

* Revised copy.

12 JUNE 1794. it was a very sufficient designation of the person who ought to succeed Mohammed Reza Khan: and, there being a man of such qualities as the Company had before recognised in Mohammed Reza Khan, they desired him to name such a person —what does Mr. Hastings do in consequence of this authority? He names no man at all: but he searches into the seraglio and names a woman for the office of the nizamut; that is to say, for the viceroyalty, the head of the nominal and ostensible government, for the guardianship of the Nawab's person, for the conservation of his authority, and as a proper representative of the remaining majesty of that government. Well, my Lords, he found her. To be sure, when you consider the guardianship of a person of great dignity, there are two circumstances to be considered; one, a faithful and affectionate guardianship of his person, and the other, a strong interest in his authority, and a means of exercising that authority in a proper and competent manner.

Appointment of Munny Begum by Mr. Hastings.

Deposition of the Nawab's mother.

Mr. Hastings, when he was looking for a woman, found actually in authority the Nawab's own mother; certainly a person, as the guardian by nature, sufficient for his guardianship. There is no manner of doubt, his mother was sufficient. Here was a legitimate wife of the Nawab Jaffier Ali Khan, and a woman of rank and distinction, who was fittest to take care of the person and interest—as far as a woman could take care of them—of her own son. This she had been before, during the time of Mohammed Reza Khan. By the direct orders of the Governor, Sir John Cartier, she was put in possession of that natural, proper, trust, the fittest to be given to such a woman. What does Mr. Hastings do? He deposes this woman. He strips her of this authority with which he found her invested by the authority of the English Government; and he finds out a woman in the seraglio called Munny Begum, who was not his mother, who could be bound to him by no tie under heaven of natural affection. He takes this woman and puts her as guardian of the Nawab's person. She had a son who had preceded Nujem-ul-Dowla. He died. The other was left without a mother; and the Calcutta Council, finding that the other Nawab had no mother, continued this woman guardian as before. But when Mobarick-ul-Dowla, the present Nawab, came to succeed, Sir John Cartier did what his duty was. He put his own mother in the place, [on the principle] which could have alone intitled Munny Begum to the guardianship

Previous appointment of Munny Begum, on the elevation of her natural son to the subahdary.

of the other, namely, the one that was her son. [Nujem-ul-Dowla] had no mother at all. 12 June 1794.

But the Company's records, signed by Mr. Sumner, the gentleman that is by Mr. Hastings' side, have stigmatised the whole of that arrangement by Lord Clive and the Council, and Munny Begum's appointment there, as a transaction base, wicked and corrupt. We will read it; by which you will see what the Company and the Council thought of the original nomination of either Munny Begum or her son; and you will find that they consider her as a great agent, an instrument of all the corruption there. It is to show your Lordships—and to refer you rather to what it proved—that this whole transaction of bringing forward Munny Begum—bringing forward the bastard son to the prejudice of the legitimate son—that these things were considered to be, what upon the very face of them they speak themselves to be, a corrupt, scandalous, transaction.

Extract of a general letter from the President and Council at Calcutta, Bengal, to the Select Committee of the Directors; page 954, paragraph 5:—

Letter of the Council to the Directors denouncing the transaction.

"At Fort St. George we received the first advices of the demise of Meer Jaffier and of Sujah Dowlah's defeat. It was there firmly imagined that no definitive measures would be taken, either with respect to a peace or filling the vacancy in the nizamut, before our arrival, as the "Lapwing" arrived in the month of January with your general letter, and the appointment of a Committee with express powers to that purpose, for the successful exertion of which the happiest occasion now offered. However, a contrary resolution prevailed in the Council. The opportunity of acquiring immense fortunes was too inviting to be neglected, and the temptation too powerful to be resisted. A treaty was hastily drawn up by the Board, or rather transcribed with few unimportant additions from that concluded with Meer Jaffier, and a deputation consisting of Messrs. Johnstone, senior, Middleton and Leycester, appointed, to raise the natural son of the deceased Nabob to the subadarry, in prejudice of the claims of the grandson; and for this measure such reasons were assigned as ought to have dictated a diametrically opposite resolution. Miran's son was a minor, which circumstance alone would have naturally brought the whole administration into our hands, at a juncture when it became indispensably necessary we should realize the shadow of power and influence, which, having no solid foundation, was exposed to the danger of being annihilated by the first stroke of adverse fortune. But this inconsistence was not regarded; nor was it material to the views for precipitating the treaty, which was pressed on the young Nabob at the first interview, in so earnest and indelicate a manner as highly disgusted him and chagrined his ministers, while not a single rupee was stipulated for the Company, whose interests were sacrificed, that their servants might revel in the spoils of the treasury, before impoverished but now totally exhausted."

"6. This scene of corruption was first disclosed at a visit the Nabob paid to Lord Clive and the gentlemen of the Committee, a few days after

Charge of embezzle-

12 JUNE 1794.

ment and extortion against the deputation.

our arrival. He there delivered to his lordship a letter filled with bitter complaints of the insults and indignity he had been exposed to, and the embezzlement of near twenty lacks of rupees issued from his treasury for purposes unknown, during the late negotiations. So public a complaint could not be disregarded, and it soon produced an inquiry. We referred the letter to the Board, in expectation of obtaining a satisfactory account of the application of this money, and were answered only by a warm remonstrance, entered by Mr. Leycester, against that very Nabob in whose elevation he boasts of having been a principle agent.

Examination of Mohammed Reza Khan, and Juggut Seet.

"7. Mahomed Reza Khan, the Naib Soubah, was then called upon to account for this large disbursement from the treasury, and he soon delivered to the Committee the very extraordinary narrative entered in our proceedings, the 6th of June; wherein he specifies the several names and sums, by whom paid and to whom, whether in cash, bills, or obligations. So precise, so accurate an account as this of money for secret and venal services was never, we believe, before this period exhibited to the honourable court of Directors; at least never vouched by undeniable testimony and authentic documents;—by Juggut Seet, who himself was obliged to contribute largely to the sums demanded; by Moolyram, who was employed by Mr. Johnstone in all these pecuniary transactions; by the Nabob and Mahomed Reza Khan, who were the heaviest sufferers; and lastly, by the confession of the gentlemen themselves whose names are specified in the distribution list.

"8. Juggut Seet expressly declared, in his narrative, that the sum which he agreed to pay the deputation, amounting to 125,000 rupees, was extorted by menaces; and, since the close of our inquiry, and the opinions we delivered in the proceedings of the 21st of June, it fully appears that the presents from the Nabob and Mahomed Reza Khan, exceeding the immense sum of seventeen lacks, were not the voluntary offerings of gratitude, but contributions levied on the weakness of the government, and violently exacted from the dependent state and timid disposition of the minister. The charge, indeed, is denied on the one hand, as well as affirmed on the other. Your honourable Board must, therefore, determine how far the circumstance of extortion may aggravate the crime of disobedience to your positive orders, the exposing the government in a manner to sale, and receiving the infamous wages of corruption from opposite parties and contending interests. We speak with boldness, because we speak from conviction, founded upon indubitable evidence, that, besides the above sums specified in the distribution account, to the amount of 228,125 pounds sterling, there was likewise to the value of several lacks of rupees procured from Nundcomar and Roydullub, each of whom aspired at, and obtained a promise of, that very employment it was predetermined to bestow on Mahomed Reza Khan."—Signed at the end:—"Clive, Wm. B. Sumner, John Carnac, H. Verelst, Fras. Sykes."

My Lords, these are mostly the friends of, and one of them is a gentlemen who is bail for and sits near, Mr. Hastings. They state to you this horrible and venal transaction, by which the government was set to sale, by which a bastard son was elevated, to the wrong of the natural and legitimate heir, and in which a prostitute, his mother, was put in the place of the honourable and legitimate mother of the representative of the family. If it went by re-

presentation, Miran's grandson would have had the right. He was put out of the question. Mobarick-ud-Dowla, however, a legitimate son, if he were descended of the Nawab from a woman of the country, was put in that situation. 12 JUNE 1794.

Duty of the Governor General to shun corrupt precedents.

Now, if there was one thing more than another under heaven which Mr. Hastings ought to have shunned, it was that very transaction, full of corruption, in which the country government was sold immediately before him to this very woman and her offspring, and in which two great candidates for power in that country fought against each other, and perhaps the highest bidder carried it, namely, Mohammed Reza Khan.

Origin of the Regulating Act.

Additional objections to the appointment made by Mr. Hastings.

When a Governor General sees the traces of corruption in any former part of the management, the traces of injustice following that corruption, the traces of irregularity setting aside the just claimants in favour of those that have no claim, that is the thing that he ought to have avoided, as the contagion of suspicion. Moreover, in consequence of these very transactions the new covenants were made, which bind the servants of the Company never from people in that situation to take any present of above 200*l.*, or some such sum of money; which covenant I shall consider in some other part of this business. [It was in pursuance of the idea of preventing the abuse of the prevailing custom of] visiting the governing powers of that country, [with a view of receiving presents from them],* which the House of Commons afterwards in its inquiries took up, in 1773, on what they considered as clear and indisputable evidence, that they made the regulating Act which followed the covenants. This very person that came to power by this very transaction did Mr. Hastings resort to. Knowing her to be well skilled in the trade of bribery, knowing her practice in this business, knowing the fitness of her eunuchs as instruments and agents to be dealers in this kind of traffic, did Mr. Hastings choose this very woman, stigmatised by the Company, stigmatised by the gentleman who sits next to him, who stated this horrible transaction, and whose name you have read to you as reprobating the horrible iniquity: that woman did he choose. But those who sold the Nawab in that manner sold a person at least to his own mother; for, though neither he nor his mother ought to have been put in that place, and

* Revised copy.

12 June 1794. they were put there for the purpose of bribes, yet the order of nature was kept, and the woman whom he appointed to govern was his legitimate mother—the natural mother of her own son: this woman was his mother, I mean, by nature. If he was to be put up, she would be naturally his legitimate guardian; for, though she was a prostitute and he a bastard, yet still she was a mother and he a son. He was her natural issue, and both nature and legitimate disposition with regard to the care of a son went together.

But what did Mr. Hastings do? Improving upon this transaction, improving on it by a kind of refinement in corruption, he turns away the lawful mother from her lawful guardianship; the mother of nature and nurture he turns out, and he delivers the son to this stepmother, to be the guardian of his person, whom we shall afterwards show to be the complete representative of his authority; and then your Lordships will see what this woman was. Therefore we shall read to you a paper upon your Lordships' Minutes, produced before Mr. Hastings' face, and never controverted by him, from that day to this:—

"At a consultation, 24th July, 1775,"—in page 976, printed Minutes.—"Shah Chanim deceased was sister to the Nabob Mahub-ul-Jung, by the same father, but different mothers. She married Meer Mahomed Jaffier Khan, by whom she had a son and a daughter; the name of the former was Meer Mahomed Sadduc Ali Khan, and the latter was married to Meer Mahomed Cossim Khan Sadduc. Ali Khan had two sons and two daughters; the sons' names are Meer Sydoc and Meer Sobeem, who are now living. The daughters were married to Sultan Merza Daood.

History of Munny Begum.

"Baboo Begum, the mother of the Nabob Mobarick-ul-Dowlah, was the daughter of Summin Ali Khan, and married Meer Mahomed Jaffier Khan. The history of Munny Begum is this:—at a village called Balcunda, near Sekindra, there lived a widow who, from her great poverty, not being able to bring up her daughter Munny, gave her to a slave girl belonging to Summin Ali Khan, whose name was Bissoo. During the space of five years, she lived at Shahjehunabad, and was educated by Bissoo after the manner of a dancing girl. Afterward, the Nabob Shamut Jung, upon the marriage of Ikram-ul-Dowlah, brother to the Nabob Surage-ul-Dowlah, sent for Bissoo Beg's set of dancing girls from Shahjehunabad, of which Munny Begum was one, and allowed them 10,000 rupees for their expenses, to dance at the wedding. While this ceremony was celebrating, they were kept by the Nabob, but some months afterwards he dismissed them, and they took up their residence in this city. Meer Mahomed Jaffier Khan then took them into keeping, and allowed Munny and her set 500 rupees per month. Till at length, finding that Munny was pregnant, he took her into his own house. She gave birth to the Nabob Nijam-ul-Dowlah; and in this manner has she remained in the Nabob's family ever since."

Observe, my Lords, I do not mean to detain you long

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upon this business, but I have thought it necessary to show you in what state this woman was found—in what state the country was found; but for all the rest, the honourable and able Manager who preceded me has so sufficiently shown you, first, the monstrous nature of deposing—I do not know whether he quite marked that sufficiently, that he deposed and dispossessed the mother of the Nawab to place this woman there. He not only chose her as a new person, but actually turned out the other, and put her at the head of the seraglio within. He put her at the head of the state without. He gave her the nizamat, and put the complete administration of justice into her management; and, caballing with her, gave her the management of all that was left of the Nawab's allowance: and, at the same time that he said he appointed her a trusty mutasaddi to keep the accounts, did declare that no accounts had been kept; that it was in vain to desire it or to call for it. Having that so lately and so clearly established to you, I only mean to refer you to the documents, and to the observations upon them made by my honourable fellow Manager who preceded me. This is the case of the appointment. My worthy fellow Manager did not go very largely into the reappointment of Mohammed Reza Khan, who, I have described, had been acquitted of the charge against him. He had been acquitted by Mr. Hastings, after a long and lingering trial. The Company, who were perfectly satisfied with the acquittal, thought that he was not only acquitted, but honourably acquitted, and that he had a fair claim to a compensation for his sufferings. They declared him not only innocent, but meritorious. They gave orders that he should be considered as a person who was to be placed again [in office] upon the first occasion, and as intitled to it, in the place which he had before, or one as near it as possible.

Honourable acquittal of Mohammed Reza Khan.

In the year 1775, the Council—whom I can never mention nor shall mention without honour, who fulfilled faithfully the Act of Parliament, who never disobeyed the orders of the legislature, and to whom no man has imputed even the shadow of corruption,—found that this Munny Begum had acted in the manner which my honourable fellow Manager has stated; that she had dissipated the revenue; that she had neglected the education of the Nawab, and had thrown the whole justice of the country into confusion. They ordered that she should be removed from that situation; that the Nawab's own mother should be placed at the

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His reappointment in conjunction with the Nawab's mother.

head of the seraglio, which she was intitled to be; and that, with regard to the rest of the offices, Mohammed Reza Khan should be employed to fill them.

Ineffectual resistance of Mr. Hastings.

Mr. Hastings resisted this with all his might; but it was by that happy momentary majority carried against him, and Mohammed Reza Khan was put in that place. The fact is, that, when he was so replaced, Mr. Hastings only waited for what he considered the fortunate moment to return again to his corrupt, vicious, tyrannical and disobedient, habits; and accordingly, the very instant that he received the notification—but I am to tell you that the appointment of Mohammed Reza Khan got the fullest approbation of the Company, and he was ordered, as long as his good behaviour intitled him to it, to continue in the office—Mr. Hastings, without alleging any ill behaviour, for no reason that can be assigned but his corrupt engagement with the Munny Begum, overturned the whole of the Company's establishment, settled by the late majority and approved by the court of Directors.

Reversal of the appointment by Mr. Hastings.

I will first show you what a man that Nawab was, who was put up to defy the Company's authority; what Mr. Hastings thought of him; what the judges thought of him; and what all the world thought of him.

Case of Roy Radachurn.

I am to tell you a little preliminary matter;—that Roy Radachurn was appointed a wakil to manage the Nawab's affairs in Calcutta. Some creditor attacked him there. He pleaded the privilege of ambassador, as the wakil or representative of a sovereign prince. The question came to be tried in the supreme court, and the issue was, whether this person was a sovereign prince or not. I think the court did exceedingly ill to entertain such a question; because, in my opinion, whether he was or not a sovereign prince, any person representing him ought to be free, and to have a proper and secure means of concerting his affairs with the Council. But they took it otherwise. The question was, whether the Nawab was a sovereign prince sufficient to appoint and protect a person to manage his affairs under the name of an ambassador. And then, in that cause, did Mr. Hastings come forward by a voluntary affidavit to prove that he had no credit, no power, no authority at all; that he was a mere pageant—a thing of straw; that the Company exercised every part of authority over him, in every particular and in every respect; and, therefore, to talk of him as an efficient person was an affront to the common

Question of the Nawab's sovereignty tried at Calcutta.

sense of mankind—as you will find the judges afterwards declared. Because I am to remark, once for all—perhaps you recollect it, but if you do not, I am to remark it again—that the chief mode by which all the villanies exercised in India by Mr. Hastings and his copartners in iniquity [were perpetrated] has been always by the means and instrumentality of persons whom they pretended to have rights of their own, and to be acting for themselves; whereas they were totally dependent upon him, and did no one act that was not prescribed him. Therefore, in order to let you see the utter falsehood, fraud, prevarication and deceit, of those persons who represent them [as independent],* and hold them up as a means and instrument of defying the laws of this kingdom, under pretence of their being absolute princes, I will read the affidavit of Warren Hastings, Esq., Governor General of Bengal, made the 31st of July, 1775 :— 12 JUNE 1794.

Affidavit of Mr. Hastings.

"This deponent maketh oath and saith, that the late President and Council did, on or about the month of August, 1772, by their own authority appoint Munny Begum, relict of the late Nabob Meer Jaffier Ali Khan, to be guardian to the present Nabob Mowbarick-ul-Dowlah, and Rajah Goordass, son of Maha Rajah Nundcomar, to be Dewan of the said Nabob's household; allowing to the said Munny Begum a salary of 1,40,000 rupees per annum, and to the said Rajah Goordass, for himself and officers, a salary of 1,00,000 rupees per annum.

"That the said late President and Council did, on or about the month of August, 1772, plan and constitute regular and distinct courts of justice, civil and criminal, by their own authority, for administration of justice to the inhabitants throughout Bengal, without consulting the said Nabob or requiring his concurrence, and that the said civil courts were made solely dependent on the Presidency of Calcutta; and the said criminal courts were put under the inspection and control of the Company's servants, although ostensibly under the name of the Nizam, as appears from the following extracts from the plan for the administration of justice constituted by the President and Council, as aforesaid."

The Nawab's want of power and authority.

My Lords, we need not, to save time, go through all the circumstances ; but this is in page 1071. They are Mr. Hastings' arguments, in his affidavit sworn in that court, to prove that this man had no power and authority at all. What is very singular in it, and which I recommend to the particular notice of your Lordships when you are scrutinising this matter, is, that there is not a single point stated to prove the nullity of this Nawab that was not Mr. Hastings' own particular act. The Governor General swears: the Court refer to him—builds and bottoms itself upon the

* Revised copy.

12 JUNE 1794. Governor General. He swears that by their own authority they appointed Munny Begum to be guardian to the Nawab :—

"By what authority" [asks the Governor General],* "did they erect the courts of law, and superintend the administration of justice, without any communication with him? Had he himself any idea he was a sovereign? Does he complain of the reduction of his stipend, or the infringement of treaties? No; he considered himself what he really is, absolutely dependent on the Company; and was willing to accept any pittance they would allow him for his maintenance. He claims no right. Does he complain that the administration of justice is taken into the hands of the Company? No; by the treaty the protection of his subjects is delivered up to the Company, and he well knew, whoever is held up as the ostensible prince, the administration of justice must be in the hands of those who have power to enforce it."

His absolute dependence on the Company.

He goes on—the Governor General—who I suppose had a delicacy to state more than what has before been made public, and closes his affidavit with saying :—

"That all he has deposed to he believes to be publicly known, as it is particularly set forth in the printed book entitled 'Reports of the Committee of the House of Commons.' I knew," he adds, "it was there, and was therefore surprised at this application. It is so notorious that everybody in the settlement must have known it. When I say everybody, I mean with an exception to the gentlemen who apply to the court. The only reason I can give for their applying is the little time they have been in the country."

That is, meaning General Clavering, Mr. Francis, and Colonel Monson. The Governor General's affidavit proves so and so. The judge goes on—Chief Justice Impey—I believe it is he that goes on :—

Opinion of Sir Elijah Impey.

"Perhaps this question might have been determined merely on the dates of the letters to the Governor General, but as the Council have made the other a serious question, I should not have thought that I had done my duty, if I had not given a full and determinate opinion upon it. I should have been sorry if I had left it doubtful, whether the empty name of a Nabob should be thrust between a delinquent and the laws, so as effectually to protect him from the hand of justice."

The Court determine on Mr. Hastings' evidence—what we stand upon here—that an empty name of a pretended sovereign should not be thrust forth between a delinquent and justice.

Opinion of Mr. Lemaistre.

What does Mr. Lemaistre, the other judge, say upon this occasion :—

"With regard to this phantom, that man of straw, Mobarick-ul-Dowlah, it is an insult on the understanding of the Court to have made

* Revised copy.

the question of his sovereignty. But as it came from the Governor General and Council, I have too much respect for that body to treat it ludicrously, and I confess I cannot consider it seriously, and we always shall consider a letter of business from the Nabob the same as a letter from the Governor General and Council." 12 June 1794.

This is the unanimous opinion of all the judges concerning the state and condition of this man. They bottom their arguments upon the voluntary affidavit of the Governor General; stating, as he does, circumstance by circumstance, all that he thought could prove that he had no power or authority at all.

The pages upon all this matter are from 1075 to 1079; the last place I have read is in page 1079; by which we have established the point we mean to maintain—that any use that shall be made of the Nawab's name in violating the rights of the Company, or bringing forward corrupt and unfit persons for the government, as Justice Lemaistre says, could be supposed no other than the act of persons in power; and that no letter that he writes was, or could be, considered as any other than the letter of that person himself. This we wish to impress upon you, because, as you have seen the use that has been made of the Nawab of Oude, you may judge of the use that has been made of the name of Hyder Beg Khan, you may judge of the use that has been made of the names of all the eminent persons of the country. Remark the use that is made of this man's name; and then, if you find that this use is made of his name for his benefit, to give him any useful or substantial authority, or to meliorate his condition in any way whatever, forgive the fraud, forgive the disobedience.

Consequent responsibility of the Council for the act of the Nawab.

But, if we show your Lordships that it was for no other purpose than to disobey the orders of the Company, to trample upon the laws of his country, to introduce back again, and to force into power, these very corrupt and wicked instruments which had formerly done so much mischief, and for which mischief they were removed, then we shall not have passed our time in vain, in endeavouring to prove that this man, in the opinion of the Court, the public notoriety, and Mr. Hastings' own opinion, was fit for nothing but to be made a tool in his hands.

Corrupt use of his name by Mr. Hastings.

If your Lordships please, having established this grand principle, and showing how it applies to the body of the first people of Bengal, namely, the Mohammedan natives, represented by the subahdars of the country, and that

12 June 1794. subahdar represented by Mobarick-ul-Dowlah, having first stated what the man was, and what he was in Mr. Hastings' opinion, when I have the honour of attending your Lordships another day, I shall show you the use that has been made of this phantom. I shall show how much a phantom he was for every good purpose, and how effectual an instrument he was made for every bad one.

CONTINUATION OF THE SPEECH OF THE RT. HON. EDMUND BURKE, MANAGER FOR THE HOUSE OF COMMONS, IN GENERAL REPLY ON THE SEVERAL CHARGES; 14 JUNE, 1794.

My Lords,—Your Lordships heard upon the last day the distribution that I laid before you, by which I resolved to guide myself in observing on the conduct of Mr. Hastings with regard to Bengal. I stated to you, first, that I should show the manner in which he comported himself with regard to the people who were found in possession of the government, under almost all its names and descriptions, when we first entered into Bengal. We have shown to your Lordships the progressive steps by which this government was brought to a state of annihilation. We have stated the manner in which it was solemnly declared by a court of justice, as a power and as a government, to be bad and depraved. We have shown to your Lordships that a court of justice had declared it to be bad in law. We have shown to your Lordships, and referred to the place, that its death was declared upon a certificate of the principal attending physician of the state, namely, Mr. Warren Hastings himself. It was declared in an affidavit made by him, in which he went through all the powers of government of which he regularly despoiled the Nawab Mobarick-ud-Dowla, part by part; exactly according to the ancient formula by which a degraded knight was despoiled of his knighthood. They took the powers of government part by part—his helmet, his shield, his cuirass; at last, they hacked off his spurs and left nothing of him. Mr. Hastings, however, laid down all the principles and left the judges to draw the conclusion. 14 June 1794.

Your Lordships will remark, and you will find it on your Minutes, that the judges had declared that Mr. Hastings' was a "delicate affidavit." We have heard of affidavits that were true: we have heard of affidavits that were perjuries; but this is brought to us as a proof of Indian refinement, to show what a delicate affidavit is. This affidavit of Mr. Hastings, we shall show to your Lordships, was not intitled Mr. Hastings' affidavit.

14 JUNE 1794. to the description of a good affidavit, however it might be intitled, in the opinion of those judges, to the description of a delicate affidavit; by which they meant that he had furnished all the means to depose the Nawab, but had delicately avoided to depose the Nawab. The judges drew, however, an indelicate conclusion. The conclusion they drew was founded upon the premises. The conclusion was very just and logical, for they declared that he was a mere cipher. They commended Mr. Hastings' delicacy, though they did not imitate it. The judges, accordingly, pronounced sentence of deposition upon the said Nawab, and they declared that any letter or paper which he produced should not be considered as his. He was removed so effectually out of the way that no minority, no insanity, no physical circumstances could put a man so out of sight, not even death itself; that they would receive his letters in no other light than as the Company's, as represented by the Governor General and Council. Thus we find him legally dead.

Practical deposition of the Nawab.

We find now that he was politically dead; and that Mr. Hastings, not satisfied with the affidavit he made in court, has thought proper, upon the record, to inform the Company and the world of what he considered him civilly and politically :—

Mr. Hastings' defence of the policy pursued with respect to the Nawab.

"The Governor General :—'I object to the motion,"—the motion relative to this trial—"because I do not apprehend that the declaration of the judges respecting the Nabob's sovereignty will involve this government in any difficulties with the French or other foreign nations." —Political effects in fact.—"How little the screen of the Nabob's name has hitherto availed will appear in the frequent and inconclusive correspondence which had been maintained with the foreign settlements—the French especially—since the Company have thought proper to stand forth in their real character, in the exercise of the dewanny. From that period the government of these provinces has been wholly theirs; nor can all the subtleties and distinctions of political sophistry conceal the possession of power, where the exercise of it is openly practised and universally felt in its operation.

"In deference to the commands of the Company, we have generally endeavoured in all our correspondence with foreigners to evade the direct avowal of our possessing the actual rule of the country; employing the unapplied term 'Government' for the power to which we exacted their submission; but I do not remember any instance, and I hope none will be found, of our having been so disingenuous as to disclaim our own power, or to affirm that the Nabob was the real sovereign of these provinces.

"In effect, I do not hesitate to say, that I look upon this state of indecision to have been productive of all the embarrassments which we have experienced with the foreign settlements. None of them have ever owned any dominion but that of the British Government in these provinces. Mr. Chevalier has repeatedly declared that he will not acknow-

ledge any other; but will look to that only for the support of the privileges possessed by his nation, and shall protest against that alone, as responsible for any act of power by which their privileges may be violated or their property disturbed. The Dutch, the Danes, have severally applied to this Government, as to the ruling power, for the grant of indulgences and the redress of their grievances. In our replies to all, we have constantly assumed the prerogatives of that character, but eluded the direct avowal of it. Under the name of influence we have offered them protection, and we have granted them the indulgences of government under elusive expressions, sometimes applied to our treaties with the Nabob, sometimes on our own rights as the dewan, sometimes openly declaring the virtual rule which we held of these provinces. We have contended with them for the rights of government, and threatened to repel with force the encroachments on it. We, in one or two instances, have actually put these threats in execution, by orders directly issued to the officers of government and enforced by detachments from our own military forces. The Nabob was never consulted, nor was the pretence ever made that his orders or concurrence were necessary. In a word,"—he says,—"we have always allowed ourselves to be treated as principals; we have treated as principals; but we have contented ourselves with letting our actions insinuate the character which we effectively possessed, without asserting it. 14 June 1794.

"For my own part, I have ever considered the reserve which has been enjoined us in this respect as a consequence of the doubts which have long prevailed, and which are still suffered to subsist, respecting the rights of the British Government and the Company to the property and dominion of these provinces; not as inferring a doubt with respect to any foreign power. It has, however, been productive of great inconveniences. It has prevented our acting with vigour in our disputes with the Dutch and French. The former refuse to this day the payment of the Bahar pesheush, although the right is incontestably against them, and we have threatened to enforce it. Both nations refuse to be bound by our decrees or to submit to our regulations. They refuse to submit to the payment of the duties on the foreign commerce, but in their own way, which amounts almost to a total exemption. They refuse to submit to the duty of ten per cent. which is levied upon foreign salt, by which—unless a stop can be put to it by a more decisive rule—they will draw the whole of that important trade into their own colonies; and even in the single instance in which they have allowed us to prescribe to them, namely, the embargo on grain, on the apprehension of a dearth, I am generally persuaded that they acquiesced from the secret design of taking the advantage of the general suspension, by exporting grain clandestinely under cover of their colours, which they knew would screen them from the rigorous examination of our officers.

"We are precluded from forming many arrangements of general utility because of this want of control over the European settlement; and a great part of the defects which subsist in the government and commercial state of the country are ultimately derived from this source.

"I have not the slightest suspicion that a more open and decided conduct would expose us to worse consequences from the European nations. On the contrary, we have the worst of the argument while we contend with them under false colours, while they declare they know us under the disguise, and we have not the confidence to disown it. What we have done and may do under an assumed character is full as likely to involve us in a war with France, a nation not much influenced by logical

14 JUNE 1794. weapons,—if such can be supposed to be the likely consequence of our trifling disagreement with them,—as if we stood forth their avowed opponents.

"To conclude, instead of regretting, with Mr. Francis, the occasion which deprives us of so useless and hurtful a disguise, I should rather rejoice, were it really the case, and consider it as a crisis which freed the constitution of our government from one of its greatest defects."

Now, my Lords, the delicacy of the affidavit is over. The great *arcanum* of the state is avowed. It is avowed that the government is ours; that the Nawab is nothing. That is avowed to foreign nations; and the disguise which we have put on, Mr. Hastings states, in his opinion, to be hurtful to the affairs of the Company. Here we perceive the exact and the perfect agreement between his character of a delicate affidavit maker in a court of justice, and his indelicate declarations upon the records of the Company, for the information of the whole world, concerning the real *arcanum* of the Bengal government.

Consistency of Mr. Hastings' conduct.

Now I cannot help praising his consistency upon this occasion. Whether his policy was right or wrong, hitherto we find the whole consistent. We find the affidavit perfectly supported. The inferences which delicacy at first prevent him from producing, better recollection and more perfect policy made him here avow. In this state things continued until the Nawab is now dead—your Lordships see; dead in law, dead in politics, dead in a court of justice, dead upon the records of the Company. Except in mere animal existence, it is all over with him.

I have now to state to your Lordships that Mr. Hastings, who has the power of putting men to death in that way, likewise has the power of revival of them. But what is the medicine that revives them? Your Lordships would be glad to know what medicine, not hitherto pretended to by quacks in physic, by quacks in politics, or by quacks in the law, will serve to revive this man—to cover his dead bones with flesh, and to give him life, activity and vigour. My Lords, I will tell you an instance of such infallible power as was never before discovered. When the orders of the court of Directors are contrary to his own opinions, he forgets them all. Let the court of Directors but declare in favour of his own system and own positions, and that very moment, merely for the purpose of declaring a rebellion against the laws of his country, these dead bones arise; or, to use a phrase more suitable to the dignity of the thing, Bayes' men are all

revived: they exist.—"Are these men dead?"—"No; they shall all get up and dance immediately." 14 June 1794.

Your Lordships will see, however ludicrous this is, that it is of great importance. But you cannot have, as in an abstract, any one thing that [better] developes the principles of the man, that [better] developes all the sources of his conduct, all the frauds and iniquities which he commits, [in order] at once to evade his duty to the court of Directors, that is to say, to the laws of his country, and then to oppress, crush, rob and ill-treat, the people that are under him.

You have had an account of the person who represented that negative dignity, Mohammed Reza Khan. You have heard of the rank he bore; the sufferings that he went through: his honourable acquittal; the Company's order that the first opportunity should be taken to appoint him Naib Subahdar, to represent the Subahdar especially in the administering of justice; and what was done in consequence of it by the Council General in the re-establishment and restoration [of power in] this person; in him, and not in the poor Nawab, a poor, helpless, ill-bred, ill-educated, boy, but in the first mussulman of the country, exercising the office of Naib Subahdar, or Deputy Viceroy, to give some degree of support to the expiring honour and justice of that country. The majority, namely, General Clavering, Colonel Monson and Mr. Francis—whose names, as I say, will, for obedience to the Company, fidelity to the laws, honour to themselves, and a purity untouched and unimpeached, stand against all the corrupt and barking virulence of India against them—these men obeyed the Company. They had no connection with Mohammed Reza Khan: they reinstated him in his office.

Reinstation of Mohammed Reza Khan.

The moment that a real death had carried away two of the most virtuous of this community, and Mr. Hastings had been re-established in his power, he returned to his former state of rebellion to the Company—of oppression and of fraud to the people he was concerned with. And here comes the reviving medicine. Mr. Hastings entered this minute;—I forgot to tell your Lordships that this Nawab, whose letters were declared by the Court, with his own approbation, to be letters of the Governor General and Council, concludes by making a demand on the Governor General and Council for the restoration of his rights. What Mr. Hastings says of that is this:—

Revival by Mr. Hastings of the

"The Nabob's demands are grounded upon positive rights, which will

14 JUNE 1794.

Nawab's authority.

not admit of a discussion. He has an incontestable right to the management of his own household: he has an incontestible right to the nizamat."

My Lords, you have heard his affidavit; you have heard his declaration. In direct defiance of both, because he is to doubt of the orders of the Company and to evade his duty, he directly declares his affidavit to be—what it was, if this is true—a gross perjury, without any delicacy. If there is a word of truth in this, he perjured himself in his affidavit, let it be managed with what delicacy it will. You have seen the affidavit; you have seen his own comment upon it; and you here see him declare the direct contrary. The word nizamat may be unfamiliar to your Lordships. It represents the whole representative executive government of India. The word signifies the viceroyalty, which immediately represents the Mogul, the great sovereign of the country. It represents the head of the whole justice. To let you see it does so, he immediately explains it:—

Dignity of the nizamat.

"It is his by inheritance; the dependents of the adawlet and of the fouzdarry having been repeatedly declared by the Company and by this Government to appertain to the nizamut. The adawlet, namely, the Government, in the distribution of civil justice, and the fouzdarry, namely, the executive criminal justice of that country, that is to say, the whole sovereign government of the courts of justice, have been declared by the Company to appertain to the nizamut."

I beg of your Lordships that, when you are considering the charges of the House of Commons, you will consider that there is no perjury which the persons they accuse ever scruple [to be guilty of];—no falsity, no shame, no idea of the smallest degree of consistency. For the moment, they make the power of the Company dead or alive, as best suits their own wicked, clandestine and fraudulent, purposes, and the great end, which is the end of all their actions and all their politics—plunder and peculation. When he has declared this, he proceeds.

I am to state to you, my Lords—here it is in a minute of Mr. Francis—what I have last stated to you, the claim of right of the Nawab. It is in page 1083, of the printed Minutes. The other part, which I recommend to your reading at large and to your very serious recollection, because it contains a complete history of all Mr. Hastings' conduct and its effects upon this occasion, is in page 1086. The Directors had written that they suspected his manœuvres—as soon as they learned them—were to replace Munny Begum, that infamous, corrupt

Suspicions entertained by the Directors of Mr. Hastings' designs.

and corrupting, prostitute that we have stated to your Lordships; and for that purpose he resolved to break the ties of nature, again to depose the mother, and put up this woman in power, and again to subject the whole administration of the country to her. 14 JUNE 1794.

Application of the Nawab for the restoration of Munny Begum.

In a letter of the Nawab, he begins his correspondence by explaining the secret of the whole—that is, Mr. Hastings' correspondence in the name of the [Nawab]—by the discovery of all his frauds. He desires that Munny Begum may be allowed to take on herself the administration of the affairs of the nizamat, that is, the affairs of government;—not the superiority in the administration of the affairs of the seraglio, which, if it had been, would have been showing a tyrannical usurpation, it belonging to the legitimate mother of the Nawab, without the interference of any person whatever;—and adds, that, by this, the Governor will give him complete satisfaction. Generally speaking, in fraudulent correspondence you find the true secret of it at last. It has been said by somebody that the true sense of a letter is to be learnt from its postscript; but this matter is so clumsily managed, in such contempt of all order and decency, the first thing the Nawab does is, to desire it shall be put into the hands of Munny Begum; and that without the interference of anybody whatever. This letter was written on the 17th of November, 1777.

Then there comes another letter, immediately following on the heels of it, which was received the 12th of February, 1778, in which he desires that Mohammed Reza Khan may be removed; and expresses his hopes, that, as he himself is now come to years of maturity, and by the blessing of God is not so devoid of understanding as to be incapable of conducting his affairs,—he says,—

"I am, therefore, hopeful, from your favour and regard to justice, that you will deliver me from the authority of the aforesaid Nabob, and give your permission that I take on myself the management of the adawlut and fouzdarry."

Here follows another letter, which could be at the distance of a very few months after he had desired that Munny Begum should have the whole of it. He now says,—"I am of proper age. I can manage all affairs. Give me this into my own hands."

It was thought that this first claim of Munny Begum was too gross, and would shock the Council. Mr. Hastings then orders another letter, in which he claims these things for

14 JUNE 1794. himself. A letter from the Governor informs the Nawab that it had been agreed, that, His Excellency being now arrived at years of maturity, the control of his own household and the courts dependent on the nizamat and faujdarry should be placed in his hands; and Mohammed Reza Khan was directed at the same time to resign his authority to the Nawab.

Decision of the Council.

True character of the transaction.

Here your Lordships see Munny Begum completely invested. You will see how she has used her power; for I suppose your Lordships are sick of the name of Nawab, after you see the true parties in the transaction, namely, the lover, Warren Hastings, Esq., and the object of his passion and flame, Munny Begum; to which he sacrifices as much as Anthony ever did to Cleopatra. You see the object of his love and affection placed in the administration of the viceroyalty, placed in the administration of the civil judicature, and of the executory justice, namely, the faujdarry. Accordingly, the salary was divided which was intended for Mohammed Reza Khan, and which we stated at about 30,000*l.* a year,—divided into three parts; a principal share to Munny Begum; the next share to a person who was to manage her affairs and accounts for her; and the third portion, for they were not equal portions—It is not worth while to state who the persons were: your Lordships will find them here. There was about 7,000*l.* a year given to the magistrate who was to exercise under her, and at her nomination, the justice of the country.

Division of the salary.

This is the distribution made in direct defiance of the orders of the Company. And, in order to mark that defiance in the most clear manner to your Lordships, it will not escape you that, before this measure was taken, Mr. Barwell being one day absent from the Council, Mr. Hastings fell into a minority, and it was agreed upon that occasion that the whole affair should be referred home to the court of Directors, and that no arrangement should be made till the Directors had given their opinion. Mr. Hastings, the very moment of Mr. Barwell's recovery, brings him forward, and they rescind this act, which subjected the court of Directors' orders to their own re-consideration, and he hurries himself headlong and precipitately into this business. Your Lordships see what sort of a Council Mr. Hastings had made it by this act; and therefore it is that I have insisted upon all these things, because there is not one of them in which some principle of government is not wounded, if not mortally wounded.

Mr. Hastings temporarily in minority.

My Lords, we show the consequence of this. We show what passed within the walls of the seraglio; what tyranny was exercised by this woman over the multitude of women there. By what means she meant, as chief justice of the country, to peculate and destroy, I leave your Lordships to judge. We have not evidence before us; but there is evidence before your Lordships of what is more essential, namely, in what manner she distributed justice. There was an ostensible man placed there in the administration of justice, with a salary of 7,000*l.* a year of the Company's money.

14 June 1794.

Mischievous influence of Munny Begum.

Sadr-al-Hak Khan, in a letter received the 1st of September, 1778, says,—

Complaints of Sadr-al-Hak Khan.

"His Highness himself is not deficient in regard for me, but certain bad men have gained an ascendancy over his temper, by whose instigation he acts."

This poor man was crippled and dishonoured by the corruption of this woman and her eunuchs, to whom Mr. Hastings gave the supreme government, and which must therefore necessarily influence all the dependent parts. After complaining of the slights he receives from the Nawab, he adds :—

"Thus they cause the Nabob to treat me sometimes with indignity, at others with kindness, just as they think proper to advise him. Their view is, that, by compelling me to displeasure at such unworthy treatment, they may force me either to relinquish my station, or to join with them and act by their advice, and appoint creatures of their recommendation to the different offices, from which they might draw profit to themselves."

In a subsequent letter to the Governor, Sadr-al-Hak Khan says :—

"The Begum's ministers, before my arrival, with the advice of their counsellors, caused the Nabob to sign a receipt, in consequence of which they received at two different times near 50,000 rupees, in the name of the officers of the adawlut, fouzdarry, &c., from the Company's sircar; and, having drawn up an account current in the manner they wished, they got the Nabob to sign it, and then sent it to me."

In the same letter, he asserts that these people have the Nawab entirely in their power.

Now I have only to remark to your Lordships that the first and immediate operation of Mr. Hastings' regulation, by putting everything into the hands of this wicked woman, for her corrupt purposes, was, that the office of Chief Justice was trampled upon and depraved; that it was made use of to plunder the Company of money to be appropriated to their

Maladministration of Munny Begum.

14 JUNE 1794.

own uses, and to force him to become the instrument in the hands of this wicked woman and her two wicked eunuchs. This was the part Mr. Hastings acted, and this was the representation that the Chief Justice made to him, as one of the very first fruits of his arrangement. I am to tell you that the next step was this;—that Mr. Hastings, having made the Nawab the master of everything, settled everything, supposing everything was at his disposal, and that he did not act as a secondary part and instrumental to him,—the next step was, that the Nawab, that you have seen revived before, dies again. For Mr. Hastings was so shocked at those proceedings coming before the Council, knowing they would not stand the eye of the Directors and could not stand the eye of anybody, that he immediately deposes the Chief Justice and took Sadr-al-Hak Khan into his protection.

Mr. Hastings' interference in behalf of Sadr-al-Hak Khan.

Now, your Lordships see, Mr. Hastings appears in his own character again; the Nawab sinks and subsides under him; and Mr. Hastings is in reality now the person that supports Sadr-al-Hak Khan, because the cries of the infamy of his arrangement had come before the Council. On the 1st of September, 1778, the Governor informs the Nawab,—

"That it is highly expedient that Suddar-ul-Hoc Khan should have full control in all matters relative to his office, and the sole appointment and dismission of the suddar and mofussil officers, and that his seal and signature should be authentic to all papers having relation to the business entrusted to him; I therefore intimate to you that he should appoint and dismiss all the officers under him, and that your Excellency should not interfere in any one."

The Nawab, in a letter to the Governor, received the 3d of September, 1778, says,—

"Agreeably to your pleasure, I have relinquished all concern with the affairs of the fouzdarry and adawlet; leaving the entire management in Suddar-ul-Hoc Khan's hands."

Here you see the Nawab again reduced to his proper state of subordination. This chief justiceship, which was declared to be his inherent right, he is obliged to submit to Mr. Hastings, and to declare that he will not interfere at all in that matter, which Mr. Hastings supposed to be his incommunicateable attribute. I do not say Mr. Hastings had not interfered very properly. Certainly [it was not fit]* to see the highest court of justice in all Bengal made the instrument of the rapacity of a set of villains, with a prostitute at their

* Revised copy.

head; just as if a gang in England, with their prostitutes, had seized the justice which ought to have punished them, and endeavoured to make use of his name in these transactions. Mr. Hastings does this ostensibly; and he has always a means of defeating privately what he declares publicly. You will see soon how this ended. Mr. Hastings gets the Nawab to give up all his authority over this man; but he says not one word of Munny Begum, who was the person who had the real authority, and who was not forbidden to have anything to do with him. 14 June 1794.

Mr. Hastings' order is dated the 1st of September, 1778. On the 3d of September, the Nawab relinquishes all concern with Sadr-al-Hak Khan. In a letter received the 30th of September, that is, about twenty-seven days after Mr. Hastings' order—by which you will see how he manages their pretended orders—Sadr-al-Hak Khan, the Chief Justice, writes in this manner:—

Further complaint from Sadr-al-Hak Khan.

"Yattibar Ali Khan,"—Munny Begum's chief eunuch,—"from the amount of the salaries of the officers of the audawlet and fouzdarry, which, before my arrival, he had received for two months from the sircar, made disbursements according to his own pleasure. He had before caused the sum of 7,400 rupees, on account of the price of mine and my paishcar's kelaunts, to be carried to account; and now continually sends a man to demand from me 4,300 and odd rupees as a balance of the price of kelaunts, and constantly presses me to take it from the amount of the salaries of the officers of the audawlet and fouzdarry, and send it to him; and I shall be under the necessity of complying. I mention this for your information."

Illusory character of Mr. Hastings' interference.

My Lords, you see how Mr. Hastings' pretended orders were obeyed. They were orders to the Nawab, whom he knew to be nothing, and who could neither control nor take the least share in it; but he leaves the thing loose to Munny Begum and her eunuchs. The first use you see made of it is, under various pretences, that he should leave the officers of Government unprovided for; that they should be robbed upon the occasion, and, under pretence, to give the Company's money to those eunuchs who were acting in the manner I have stated to you. The other accounts come of all these orders, and the Governor General is obliged again to take up the matter; and there is a minute on the 10th of October, 1778, which contains a representation, as the minute states it, so pointed and so very just, of the fatal effects which had attended the Nawab's interfering in the administration of justice, that I shall insert it entire, but without any comment. In fact, it speaks too plainly to

14 JUNE 1794. require one. It is in page 1086 of your Lordships' printed Minutes :—

His letter of remonstrance to the Nawab.

"The Governor General's letter to the Nabob :—

"At your Excellency's request, I sent Sudder-ul-Hoc Khan to take on him the administration of the affairs of the audawlet and fouzdarry, and hoped by that means not only to have given satisfaction to your Excellency, but that, through his abilities and experience, these affairs would have been conducted in such manner as to have secured the peace of the country and the happiness of the people. And it is with the greatest concern I learn that this measure is so far from being attended with the expected advantages, that the affairs both of the fouzdarry and audawlet are in the greatest confusion imaginable, and daily robberies and murders are perpetuated throughout the country.

"This is evidently owing to a want of a proper authority in the person appointed to superintend them. I therefore addressed your Excellency on the importance and delicacy of the affairs in question, and of the necessity of lodging full power in the hands of the person chosen to administer them. In reply to which your Excellency expressed sentiments coincident with mine. Notwithstanding which, your dependents and people, actuated by selfish and avaricious views, have by their interference so impeded the business as to throw the whole country into a state of confusion, from which nothing can retrieve it but an unlimited power lodged in the hands of the superintendent. I therefore request that your Excellency will give the strictest injunctions to all your dependents not to interfere in any manner with any matter relative to the affairs of the audawlet and fouzdarry, and that you will yourself relinquish all interference therein, and leave them entirely to the management of Sudder-ul-Hoc Khan. This is absolutely necessary to restore the country to a state of tranquillity; and if your Excellency has any plan to propose for the management of the affairs in future, be pleased to communicate it to me, and every attention shall be paid to give your Excellency satisfaction."

My Lords, I think there is enough read to you; referring your Lordships to read with the greatest attention this part of your Minutes. Your Lordships will see that, though Mr. Hastings has the impudence still to pretend that he wishes the restoration of order in that country and the restoration of justice, yet, instead of writing to Munny Begum upon the business, who he knew was the very object complained of—that the Nawab was not mentioned in this last complaint, but that the eunuchs of Munny Begum were mentioned—there is not one word to these eunuchs, not one word to Munny Begum: but this man, whom he knew to be a pageant in his own court and own house, he is the person to whom he refers for relief. When you consider his resolution to support the authors of the grievance, and his applying to those for redress who he knew never authorised it and could not redress it, it shows he meant to keep the country in that state for the

Disastrous results of Munny Begum's supremacy.

sake of this corrupt woman and her corrupt servants; who, I take it, were administering and squandering away the Company's money as well as the Nawab's. Robberies and murder began to prevail through the country, civil order was completely subverted, and the country had lost, as Mr. Hastings states here, its tranquillity. There was no appearance of order, law or justice, from one end of Bengal to the other. By means of this prostituted use of a corrupt prostitute, for the corrupt purpose of Mr. Hastings, law, justice, decency, everything, is trampled upon, and the country delivered up into the hands of murderers and robbers. It continued to be so; and the court of Directors learn with horror and indignation these proceedings of Munny Begum. They write, as you will find in page 1063 of the printed Minutes, condemning the proceedings and the removal of Mohammed Reza Khan. On the 27th May, 1779, the Directors learn that Munny Begum was appointed, and they order that she shall be displaced, and Mohammed Reza Khan placed again in the seat of justice.

14 June 1794.

Order from the Directors for the reappointment of Mohammed Reza Khan.

Mr. Francis, when the reiterated orders arrived, moved for an obedience to them. Mr. Hastings, having before his eyes all the horrible consequences that attended his appointment, does still resist, and by his casting voice counter orders that the court of Directors should be disobeyed, and Mohammed Reza Khan should not get into that employment, but that this Sudr-al-Hak Khan, continuing in this condition, should remain. I say nothing of Sudr-al-Hak Khan. He seems to be very well disposed to do his duty; but Mr. Hastings' arrangements will not suffer him; and if Mohammed Reza Khan had been there, and no better supported by Mr. Hastings than Sudr-al-Hak Khan was, he could have kept the country in no better order; though, perhaps, his name, authority and weight, which still adhered to him in some degree, might have had some influence.

Resistance of Mr. Hastings.

My Lords, you see his defiance of the Company. You see his defiance of all decency. You see prostitutes of every kind ravaging Bengal; and yet still, to the last, he defies the authority of the court of Directors. There can be no doubt he flatly, directly and peremptorily, disobeyed them. Order after order was reiterated upon him. His disobedience rose with an elastic spring in proportion to the pressure that was upon it. Upon this there was a pause. The Directors were disobeyed, and you suppose that the thing remained so. My Lords, he was resolved to let the

14 June 1794. government of the country know that he despised the orders of the court of Directors, and that, whenever he pretended to obey them, in reality he was resolved upon the most actual disobedience. An event happened, the particulars of which we are not to repeat here,—a dispute, upon Mr. Francis' side, conducted upon no principle that we can discover but a desire to obey the Company's orders, and to execute his duty with fidelity and disinterestedness.

His compromise with Mr. Francis.

Mr. Francis, about that time, finding resistance to Mr. Hastings was vain, reconciles himself with him, but on terms the most honourable, terms [becoming] the reconciliation of public men;—that he should follow and obey the laws; that he should respect the authority of the court of Directors, and restore Mohammed Reza Khan.

Mr. Hastings enters a minute. He writes to the Nawab an ostensible letter, as you will see. And your Lordships will remark what I said of a double current: always, when he does obey or pretend to obey the Company's orders, there is a private channel through which he defeats them all:—

"Letter from Mr. Hastings to the Nabob, Mobarick-ul-Dowlah, written the 10th February, 1780; [page 1089].

Reappointment of Mohammed Reza Khan.

"The Company, whose orders are peremptory, have directed that Mahomed Reza Khan shall be restored to the offices he held in January 1778. It is my duty to represent this to your Excellency, and to recommend your compliance with their request that Mahomed Reza Khan may be invested with the offices assigned to him under the nizamut by the Company."

Your Lordships see here, Mr. Hastings informs the Nawab that, having received peremptory orders from the Company, he restores and replaces Mohammed Reza Khan. Mohammed Reza Khan is then in possession, and in possession by the best of all titles, the orders of the Company. But, that you may see the manner in which he vilifies, in the hands of these miserable country powers, the authority of the Directors, he then comes as usual with a defeasance; and the manner in which that defeasance comes before us is this.—We knew nothing of this private affair till Mr. Hastings, in his answer before the House of Commons, finding it necessary to destroy the validity of some of his own acts, gets Sir John D'Oyley—of whom more hereafter—to come before us in his defence; not in his person, but as a narrator, and taken up by Mr. Hastings, as being one of that Council, which you have heard of, for drawing up that defence. Sir John D'Oyley appears as a witness in this

case. Here you have seen the public agency—here you have seen the public letter—here you have seen the ostensible part of the transaction. Now hear the banya, Sir John D'Oyley, give an account of his part in it:— 14 JUNE 1794.

"Extract from Mr. Hastings' Defence before the House of Commons,"—page 1089 of the printed Minutes. This is Sir John D'Oyley in Mr. Hastings' defence:—

"I was appointed Resident on the resignation of Mr. Byam Martin, in the month of January, 1780, and took charge about the beginning of February of the same year. Sir John D'Oyley's account of the transaction.

"The substance of the instructions I received was, to endeavour, by every means in my power, to conciliate the good opinion and regard of the Nabob and his family, that I might be able to persuade him to adopt effectual measures for the better regulation of his expenses, which were understood to have greatly exceeded his income; that I might prevent his forming improper connections or taking any steps derogatory to his rank, and by every means in my power support his credit and dignity in the eyes of the world. And, with respect to the various branches of his family, I was instructed to endeavour to put a stop to the dissensions which had too frequently prevailed amongst them. The Nabob, on his part, was recommended to pay the same attention to my advice as he would have done to that of the Governor General in person.

"Some time, I think, in the month of February of the same year, I received a letter from Mr. Hastings, purporting that the critical situation of affairs requiring the union and utmost exertion of every member of the Government, to give vigour to the acts necessary for its relief, he had agreed to an accommodation with Mr. Francis; but to effect this point he had been under the necessity of making some painful sacrifices, and, particularly, that of the restoration of Mahomed Reza Khan to the office of Naib Soubah, a measure which he knew must be highly disagreeable to the Nabob, and which nothing but the urgent necessity of the case should have led him to acquiesce in; that he relied on me to state all these circumstances in the most forcible manner to the Nabob, and to urge his compliance, assuring him that it should not continue longer than until the next advices were received from the court of Directors."

Now Mr. Hastings himself lets us into the secrets of his government. He writes an ostensible letter to the Nawab, declaring that what he does is in conformity with the orders of the Company. He writes a private letter to the Nawab, assuring him it was not in compliance with the orders of the Company, but in consequence of the arrangement he had made with Mr. Francis, which arrangement he thinks necessary for the support of his power. He does this in order to prevent their looking any further, or having the least hope from the justice of this country or any legal power in it. [He states] that he places him there, not in obedience to the orders of the Company, but to gratify Mr. Francis. If he quarrels with Mr. Francis, he makes

14 June 1794. that a reason for disobeying the orders. If he agrees with him, he informs people privately that it is not in consequence of the orders that he acts. That is not all. He promises there that he will take the first opportunity to remove Mohammed Reza Khan from his office again; that he will replunge affairs into the same distracted and ruined state that they were in before. And this he has laid open fully before you. Sir John D'Oyley tells you this; and Sir John D'Oyley is a person who is in the secret. One man that is is the secret is worth a thousand ostensible persons.

Mohammed Reza Khan, I should tell you, was accordingly reinstated in all his offices, and the Nawab was reduced to the situation, as Mr. Hastings says, of a mere cipher. Now think of this:—Sir John D'Oyley is made to tell this, or Mr. Hastings for him; for whether Sir John D'Oyley writes it for Mr. Hastings or Mr. Hastings for Sir John D'Oyley I do not know, because—as somebody said of some great friends, that they had but one will, one chamber, one bed, and one hat between them—these gentlemen have one style among them; so that it is impossible for you to determine of the masters of this Roman school whether anything is written by D'Oyley, by Shore, or by Hastings. They have a style in common—a kind of bank upon which they have a general credit; and you cannot tell one from the other.

Sir John D'Oyley says the Nawab is reduced again to a cipher:—

Pretended restoration of authority to the Nawab.

"About the month of June, 1781, Mr. Hastings, being then at Moorshedabad, communicated to me his intention of performing his promise to the Nabob, by restoring him to the management of his own affairs:"—

that is to say, by restoring Munny Begum again, and by turning out Mohammed Reza Khan. He communicated privately his intentions to Sir John D'Oyley, without communicating one word of them to his colleagues, or [entering] any minute of Council, by which it could be known in any way to the Directors.

Then, to show in what manner the Nawab was to be restored to his power, he gave him an order for investigating his accounts, to draw up articles of instructions for the Nawab's conduct in the management of his affairs. This is in page 1090, to the end of the whole affair. By which you will see clearly how he was restored; that is, that he was taken out of the hands of the first Mussulman in that country, the man most capable to administer justice, whom the

Company had ordered to be [invested with that authority], to be put into the hands of Sir John D'Oyley. Is Sir John D'Oyley a Mussulman? Is Sir John D'Oyley fit to be at the head of a government? What is there about him that anybody saw that made him to be a fit person to defy the Company's orders? And this man, who was to have the distribution and management of his affairs, was put, you see there, into the most complete and perfect subjection to this Sir John D'Oyley. Munny Begum had the real influence. Sir John D'Oyley was his instrument there to preserve it. Between them, they pillaged the Nawab in the most shocking manner, and must have done so to the knowledge of Mr. Hastings. Mr. Hastings then writes a letter, which discovers the secret beyond all power of evasion:—

14 June 1794.

Rapacity of Sir John D'Oyley.

"Instructions from the Governor General to the Nabob Mobarick-ul-Dowlah, respecting his conduct for the management of his affairs:—

Letter of instructions from Mr. Hastings to the Nawab.

"9th. These I make the conditions of the compliance which the Governor General and Council have yielded to your late requisition. It is but just that you should possess what is your acknowledged right; but their intention would be defeated, and you would be in a worse situation, if you were to be left a prey without a guide until you have acquired experience—which to the strength and goodness of your understanding will be the work of but a short period—of the rapacity, frauds. and artifices of mankind. You have offered to give up the sum of four lacks of rupees to be allowed the free use of the remainder of your stipend. This we have refused, because it would be contrary to justice. You should consider this as a proof of the sincerity of the above arrangements which have been recommended to you, and of their expediency to your real interests; and your attention to them will be the means of reconciling the Company to the resolution which we have taken, and which will be reported to them in a light very hurtful both to you and to us, if an improper effect should attend it. These I have ordered Sir John D'Oyley to read in your presence and explain them to you, that no part of them may escape your notice; and he has my positive orders to remonstrate with you against every departure from them.

"Upon all these occasions, I hope and expect that you will give him a particular and cordial attention, and regard what he shall say as if said by myself; for I know him to be a person of the strictest honour and integrity. I have perfect reliance on him, and you cannot have a more attached or more disinterested counsellor. Although I desire to receive your letters frequently, yet, as many matters will occur which cannot so easily be explained by letters as by conversation, I desire that you will, on such occasions, give your orders to him respecting such points as you may desire to have imparted to me, and I, postponing every other concern, will give you an immediate and the most satisfactory reply concerning them."

My Lords, here is a man who is to administer his own affairs, who has arrived at an age to supersede all the great Mohammedan doctors and the great nobility of the country, and he is put under most absolute guardianship of Sir John

Virtual supremacy of Sir John D'Oyley.

14 JUNE 1794. D'Oyley. But Sir John D'Oyley is given by him a great character. I cannot confirm it, because I can confirm the character of none of Mr. Hastings' instruments. They must stand forth here and defend their own character before you. You see here 40,000*l.* a year offered for the redemption of this man:—"I will give 40,000*l.* a year to have the management of my own affairs." God bless me! Here is a man who has an indisputable right to the management of his own affairs, and Mr. Hastings gives an impression that he had an indisputable right to the management of his own affairs, but, at the same time, he knew the man considered himself so little to have the management of his affairs, to be under some corrupt tyranny or other, to be so little free, that he offers 40,000*l.*! Judge you what bribery, rapine and peculation, that man must have experienced from his new governor, who offers 40,000*l.* out of 160,000*l.* a year to have the management of his affairs. That shows he had it not himself. Who has it? Sir John D'Oyley. He comes forward. He is given the management of the whole. Munny Begum had the management before; and, whether an Englishman, a white man, a black man, a white woman, or a black woman, it is all Warren Hastings! He gets Sir John D'Oyley, or pretends that he gets him, in the narrative that he makes before the House of Commons, positively to deny, in the strongest manner—and he says the Nawab would give his oath of it—that the Nawab ever gave a commission to [any one] to make that offer. This is the declaration to the House of Commons.

The Nawab's alleged offer of redemption.

Mr. Hastings' denial of the offer before the House of Commons.

You remark that this very letter is an instruction given to Sir John D'Oyley to be read to the Nawab himself. Sir John D'Oyley never denies it; and yet he is suffered to let his name come forward to the House of Commons to deny this. Would it not have been a proper thing in Mr. Hastings, at such a time, when a man is desiring to redeem himself from slavery by offering 40,000*l.*, to ask Sir John D'Oyley to explain this? And this has been long published and long in print, with the remarks such as I have made upon it, in the ninth Report of the Select Committee, and which they did know long and long before. Not one word on the part of Mr. Hastings, not one word on the part of Sir John D'Oyley, to contradict it! But, my Lords, there is something much more serious than that. Remember that this is a letter going with Sir John D'Oyley's instructions. Sir John D'Oyley never contradicts it; and he comes

His previous silence.

to the House of Commons—or is made to come, for I do consider him as no more than a phantom, and I think the same of the rest: they cannot, under Mr. Hastings' government, eat a bit of bread but upon his terms. 14 JUNE 1794.

This offer of the 40,000*l.* a year remained there unexplained till Mr. Hastings, in his defence, thought proper to produce Sir John D'Oyley. You would naturally imagine that, before the House of Commons, where clouds of witnesses were produced by the friends and agents of Mr. Hastings, he would then have out Sir John. Not a word of Sir John D'Oyley! Sir John D'Oyley is examined before the Committee of Managers: he refuses to answer. Why? Because that might criminate himself. My Lords, every answer that most of them make they are sensible they cannot make without danger of criminating themselves; being all involved in the crimes of the prisoner. He has corrupted and ruined the whole service. There is not one of them that dares appear and give a fair and a full answer as to anything; as you see in Mr. Middleton and many others at your bar,—"I won't answer this, because it tends to criminate myself." How comes it that the Company's servants are not able to give evidence in the affairs of Mr. Hastings without tending to criminate themselves? Well,—Sir John D'Oyley is in England. Why not call him? I have not the honour of knowing him particularly, but he is always forthcoming, he is a man of a reputable and honourable family. Why is not Sir John D'Oyley called by Mr. Hastings to verify this, and not to suffer this black record to stand before your Lordships, to be urged by us, and to press it, as we do, against him, to condemn him for this affair? If he thought Sir John D'Oyley could have acquitted him, he would certainly have called him; but he knew he could not. When I see that Sir John D'Oyley and Mr. Hastings have a record of such an offer for a redemption out of their hands, I conclude, first, that he has not the disposal of his own affairs; and, secondly, that those who have the disposal of them dispose of them so corruptly and prodigally that he can hardly redeem them too highly.

Refusal of Sir John D'Oyley to give evidence before the Committee of Managers.

How is this explained? It is explained no ways! It stands clear, full, bare in all its nakedness before you; and they have not attempted to produce the least evidence against it. Therefore, in that situation I leave it with you; letting you know that he continued to make Munny Begum

14 JUNE 1794. the object of his attention; that he could not entirely remove Mohammed Reza Khan from the seat of justice, but he was made a cipher. All was taken out of his hands and put into the hands of Sir John D'Oyley, directly contrary to the order of the Company, which certainly was, to put Mohammed Reza Khan in all these offices. He stripped him of everything, but a feeble administration of justice; which, I take for granted, was not much better in his hands than in Sadr-al-Hak Khan's, the former Chief Justice.

Mr. Hastings' letter to the Directors in behalf of Munny Begum.

He continued that regard to this woman to the last; and, when he was going away, on the 3d of November, 1783, he wrote himself a sentimental letter to the court of Directors about Munny Begum. We have heard of "delicate affidavits;" here is a sentimental letter. Your Lordships will find it in pages 1092 and 1093 of your printed Minutes. He writes it without communication to the Council. He writes it as a private sentimental letter to the court of Directors. He talks in such delicate strains of this woman that I will venture to say, in all the "Arcadia," in all the novels and romances that ever were published, an instance of a greater, a more constant and more ardent, affection, defying time, ugliness and old age, never did exist than existed in Mr. Hastings towards this old woman, Munny Begum. And, accordingly, as it is very rare in the Company's records, except in cases of a certain kind, cases of gallantry, that they abound with sentimental expressions, I recommend it to your Lordships' curiosity in your reading, as well as to see what is the great spring of movement on this occasion. He says:—

"She, too, became the victim of your policy and of the resentments which succeeded. Something, too, she owed of the source of her misfortunes to the belief of the personal gratitude which she might entertain for the public attention which I had shown to her. Yet, exposed as she was to a treatment which a ruffian would have shuddered at committing, and which no recollection of past enmities shall compel me to believe, even for a moment, proceeded from any commission of authority, she still maintained the decorum of her character. Not even then, nor before, nor since that period, has the malice of calumny ever dared to breathe on her reputation."—

Delicate! sentimental!—

"Pardon, honourable Sirs, this freedom of expostulation. I must, in honest truth, repeat that your commands laid the first foundation of her misfortunes. To your equity she has now recourse, through me, for their alleviation, that she may pass the remainder of her life in a state which may at least efface the remembrance of the years of her affliction; and to

your humanity she and an unseen multitude of her sex cry for subsistence." 14 June 1794.

I wish to recommend every word of this to your Lordships' consideration, as a model and pattern of perfection. You observe how he can pity a woman who has suffered treatment from the servants the Company sent there—a parcel of ruffians—treatment that a ruffian would be ashamed of. Your Lordships have seen in the evidence what this ruffianism was. It was neither more nor less than, in order to get at the accounts which she concealed in those corrupt transactions I have stated, that they told her she must privately remove to another house. Mr. Hastings never forgets it. He cannot believe that anybody dare communicate such a thing. You must consider the helplessness of their sex, and the affronts offered to women!

For God's sake, my Lords, consider the manner in which Mr. Hastings and his creatures have treated the Begums of Oude! And this woman being only threatened—the threats never attempted to be executed—that she must, if she did not deliver up the accounts, probably remove to another house and leave the accounts there, the memory of this can never be effaced; and for this he desires the court of Directors to make a large allowance to comfort her in her old age! He makes her send another, in which she says—

Letter of Munny Begum.

["Unable to provide for the many relations and dependants who looked up to me for support, I frequently represented my afflictions to you. You comforted me with promises of assistance. Relying on these, and never doubting that you would kindly consider my wretched situation, I have by the sale of my effects thus long contrived to subsist myself, and support my relations and dependants; but the accumulated distresses which I suffer, from the importunities of my creditors and the difficulties under which I labour, are now beyond all bounds. I have not the means to satisfy the one or power to bear the other. Affliction seems to threaten a period to my days. It is incumbent upon all the English gentlemen, but, above all, upon you, who on the part of the King, the Company, and the English nation, are the governor of this country, and the distributor of justice to all who demand it, to consider with compassion our situation.]"

In this situation Mr. Hastings leaves her. He leaves in this situation the justice of the country. The only concern he has at parting is, that this woman may not have so large an allowance. And yet I am to tell your Lordships, that it appears upon your printed Minutes that this woman had some way of comforting herself; for old ladies of that description, who have passed their youth in amusements, in dancing and in gallantries, in their old age take comfort

14 JUNE 1794. Her monopoly of the spirit trade.

in brandy. This old lady has had influence with [him] to induce her, as a smuggler, to refuse payment of the duty on spirits, in which article she is the largest dealer in this division; as, indeed, she is, in every species of trade, by much the more considerable portion. By which your Lordships see that that this sentimental lady whom Mr. Hastings recommends had ways of comforting herself. She carried on, notwithstanding her dignity, a trade in spirits.

A Mohammedan of distinction never carries on any trade at all. It is an unknown thing. Very few Mohammedaus carry on any trade; but a Mohammedan to carry on a trade in spirits is a prodigy, never heard of before. For a Mohammedan woman—for a woman of quality—for a woman of sentiment—to become a dealer of spirits is, my Lords, a thing reserved for the sentimental age of Mr. Hastings. And I will venture to say, that no man or woman could have attempted any such a trade in India but would be dishonoured, ruined and disgraced, by it. Not only so; but it appears that she used the influence Mr. Hastings gave her to monopolise the trade in brandy, and to evade the duties. This is the way we left the two sentimental lovers; one consoling herself in brandy, the other in whining; and, as Swift describes the progress of an intrigue [in some respects similar]*:—

> "They keep, at Staines, the 'Old Blue Boar,'
> Are cat and dog, and rogue and w——."

And such connection can be carried on in no other way. That is the history of sentiment: Swift calls it properly the "progress of Love." Here she monopolises the trade, she deals in spirits, she sets up the sign of the "Old Blue Boar," and then you have a sentimental letter from her. This is "the Progress of Love" exactly. And now, having done with this progress of love, we return to the progress of justice.

We find how Sadr-al-Hak Khan, the Chief Justice of Mr. Hastings' own nomination, was treated. Now we will see how justice was left under Mohammed Reza Khan. In page 1280 of your Lordships' Minutes, you will see the funeral of dignity, in Munny Begum dealing in spirits, engrossing trade; in which you will see all the progress of these enormities: and now you will see the extinction of order

* Revised copy.

and justice in that country. Mr. Shore is an evidence beyond doubt:— 14 June 1794

"Mr. Shore's remarks accompanying the Governor General's minutes, 18th May, 1775." The beginning of the paper—the part from which the extract is taken, is in page 1280:—

Mr. Shore's account of the administration of justice under Mohammed Reza Khan.

"Fouzdarry Jurisdiction.—Of the Fouzdarry jurisdiction nothing has yet been said. In this department criminal justice is administered, and it is the only office left to the Nabob. I do not see any particular reason for changing the system itself, and perhaps it would on many accounts be improper; but some regulations are highly necessary. Mahomed Reza Khan is at the head of this department, and is the only person I know in the country qualified for it. If he were left to himself, I have not a doubt but he would conduct it well; but he is so circumscribed by recommendations of particular persons, and by the protection held out to his officers by Europeans, that to my knowledge he has not been able to punish them, even when they have been convicted of the greatest enormities; and he has often, on this account, been blamed where his hands were tied up.

My Lords, you now see this minute of Sir John Shore's, now Governor General of Bengal, one of Mr, Hastings' own committee for drawing up his Defence, just come to take a review of the ruins of the government that had been left to him by Mr. Hastings. You see [here not] the little paltry things which might deserve, in their causes, the animadversion of a rough satirist like Dr. Swift, from whom I quoted; but you see things ten thousand times more serious, that deserve the thunderbolt of vindictive justice upon his head. Because you see that, after he had restored Mohammed Reza Khan, the justice of the country was gone. The man who was there could and would have executed his office; he was fit for it and disposed to it; but there was neither law, order nor justice, in the country. Why? Because of the interposition of Europeans, and gentlemen who must have been patronised and supported by Mr. Hastings; this being a very little time before his departure, so that the whole effect of it was known to him before he went away. The remedy he gave to it is known. He continued this woman in power: his last thoughts were recommending her to the Directors. But for the justice of the country, for the peace and security of the people of Bengal, he took no care at all; and they were destroyed by the Europeans, and the gentlemen who interfered in these affairs, and who crippled, and disabled and rendered null, the justice of the country.

Pernicious effect of European interference.

My Lords, I have taken some pains in giving you this history;—showing you the arts, stratagems, rebellion to the court of Directors, the false pretences, the double govern-

14 JUNE 1794. ment, the false pretences of independency leading to most actual dependence — declaring that no European should come to the Nawab but through the intervention of Sir John D'Oyley. Then I say that Sir John D'Oyley—then I say that the English gentlemen that were patronised and countenanced by Mr. Hastings, had wrought that havoc in the country before Mr. Hastings left it.

I consider the justice of the country—because that speaks for itself, as the source of all good, and the maladministration the source of all evil in the country—thus destroyed by Sir John D'Oyley—by Mr. Hastings, who sent him there for the purpose of forming a clandestine government under himself. Of peculation the business has been sufficiently explained before. I shall not enter further into it than by saying, that not one trace of an account of all these vast sums of money, delivered into the hands of Sir John D'Oyley for the Nawab, appears in any part of the Company's records. So that, whenever I find a concealment of money and a stopping of an account, that moment I find a fraud; and, if I find it joined with the devastation of a country and the extinction of justice in it, that devastation of a country and that extinction of justice is for that money so improperly taken.

Absence of an account of the sums received by Sir John D'Oyley.

We are not here trifling with justice. [The happiness of]* great families, of a powerful and vast nobility, [is concerned]; and order and justice in a great province is extinguished, by the behaviour of this prostitute, Munny Begum, who is brought here, and who could have no charms to any one;—for I will fairly say that there are some passions that have their excuses, but the passion towards this woman was the passion of avarice—the passion of avarice and rapacity only, which are persevered in to the end, for which they defied the orders of the court of Directors, rebelled against their masters, and, finally, destroyed the justice of a great country.

My Lords, I have done with this business. I come next to the next division of the natives, which I shall state to your Lordships in a few words. Indeed, Mr. Hastings put up all the nobility and gentry of Bengal, all the freeholders and all the landed interests, to a public auction, and let them to the highest bidder. The persons had no way to save themselves but by becoming farmers. I will not put it

Public auction of the lands of Bengal.

* Revised copy.

to your Lordships, who represent so large a part of the dignity and large part of the landed interest of the kingdom, what that was :—I am forbid by your orders. Though I do not know that I am, for we have examined some witnesses upon it, in this revenue charge : I am not shut out by your order from observing upon it. It is before your Lordships that this sale was ordered. Mr. Hastings does not deny it : he says that he did it not with an ill intention. What is the answer I make to this ? The answer is, that it could be done for no other end than an ill intention. He declares that these farmers he had let it to had overpassed their abilities to pay; that the revenue was lost and sunk by it ; and that the country was wasted and destroyed. I need not tell you [what must have been the consequence],* when it got into such wicked and rapacious hands, out of the hands of the natural proprietors of it. I leave it to your Lordships' own meditation and reflection, and do not press it one step further. I shall not tread upon the ground so well opened and pressed by my fellow Manager. He let the lands to his own banyas. He took his own domestic servants ; he put them in the houses of the nobility of the country, in direct violation of an express order made by himself, that no banya of a collector—and the spirit of that went ten thousand times more strongly that no banya of a Governor General—should have any one of those farms. We find him in possession of the greatest of them. We find he made a regulation that no farmer should possess more than a lac of rupees. We find the banyas possessing several. We find, wherever there is a violation of a regulation which looks plausible in itself, that it is made for a reason which touches him so closely, that it is absolutely impossible not to suppose that he himself has the advantage of it.

14 June 1794.

Occupancy of the farms by Mr. Hastings' servants.

Illegality of the proceeding.

In the first place, you have proof that he does take bribes. That he has corrupt dealings is a thing that he admits ; but he says, he has them from public-spirited motives. There is a rule formed upon a just, solid, presumption of law, that, if you find a man guilty of one offence contrary to known law, whenever there is a suspicious case against him, that man is guilty of that crime, so as to turn the *onus probandi* upon him. Therefore, when I find the regulations broken, when I find farms given of above a lac of rupees, when I find farms given to the Governor General's own banya, contrary

* Revised copy.

14 JUNE 1794.

to the principle of this regulation—in the strongest way contrary to it—when I find that he accumulates beyond the number, when I find that all these things are done, and that he incurs great balances, then I say that I do not know but that, by the presumption of law, I am bound to believe that this was not for the servants, but the master.

Corrupt motive imputed to Mr. Hastings.

It is possible Mr. Hastings might be in love with Munny Begum. Be it so! Many great men have played the fool for prostitutes, from Mark Anthony's days downwards; but no man ever fell in love with his own banya. These people are neither the relations nor kindred [of Europeans], nor does any trace of friendship exist between them. They do not live in friendship. They are not bottle companions. And Mr. Hastings was guilty of all that rapine upon the country for the sake of his banya! But there is another thing which has been stated, and upon which I shall observe; namely, that as soon as he got the majority—that period of all evils, the opening of Pandora's box—by the death of General Clavering and Colonel Monson, the first thing he does is, to appoint a new commission, to go and examine these people—a commission called an aminy, to go through the whole country, to go to every man's house, to call for his titles of every kind, to call for every species of account or paper that he has, that he may enable himself to ravage, and to take advantage of the hopes and fears of everybody, to destroy all their property.

Appointment of the aminy commission under Gunga Govind Sing.

Whom does he appoint the manager of this whole affair? Gunga Govind Sing; another banya of his, a domestic servant of his; which we have discovered lately, but which I do declare for one I did not think, for, though I knew he kept a rogue in his house, [I did not think] that it was a common receptacle of thieves and robbers. I did not know till lately that Gunga Govind Sing had been his domestic servant; but Mr. Hastings calls him his domestic servant, and his faithful domestic, and as such calls upon the Company to reward him. All the Company's servants are subject to him—are bound to obey all his orders, that is, the orders of the committee.

I hope I need not tell your Lordships what sort of stuff these pretended committees are made of, that are to enable Gunga Govind Sing to ravage the country. For what is this done? "Why," say the Counsel, "it is true Mr. Hastings thought that the value of the lands was thoroughly known. They had been investigated three times over, and they were all let by public auction to the highest bidder."

There is a test of their value which I can never think of, without the greatest horror and detestation of the person that was concerned in it. When I consider the confiscation of the landed interest of Bengal, Bahar and Orissa, three great kingdoms, given by a dash of that man's pen into the hands of his banyas and creatures, I can never think of it without horror. 14 June 1794.

Hatefulness of crimes and criminals.

Some people say you ought to hate the crime and love the criminal. No; that is the language of false morality. You ought to hate the crime and the criminal, if the crime is of magnitude. If the crime is a small one, then you ought to be angry with the crime and reluctant to punish the criminal; but, when there are great crimes, then to hate them together. What! am I to love Nero? to fall in love with Heliogabalus? Is Domitian to be the subject of my affection? No; we hate the crime, and the criminal ten times more. And, if I use indignant language, if I use the language of scorn and horror with respect to the criminal, I use the language that becomes me when I talk of great tyrants and monsters, who have been the destruction of great nations. These are the things for which we look with horror upon these transactions.

Inquisitorial nature of the commission.

They might know, says the Counsel, the country in general, but they could not know every bigha of it;—that is, about the third part of an acre of land. You could not squeeze everything, without ordering a villain, Gunga Govind Sing—I call things by their names—the most atrocious and wicked instrument of the most atrocious and wicked tyranny that ever was, to examine every man's papers, to oblige every man to produce his papers, upon pain of criminal punishment, to be inflicted at the discretion of this Commissioner, namely, Gunga Govind Sing; because I shall show you what acting with Gunga Govind Sing was, and I will give you the description of an aminy. For this I refer your Lordships to the evidence of all this, from page 1289 to 1301; and I pass on, expressing only my horror and detestation at it, and wishing to kindle in your Lordships' minds the same horror and detestation. He was not satisfied with confiscation, but just after he comes with this blister upon the sore, and these people were ravaged by the whole tribe of Calcutta banyas. He sets another ravage and inquisition upon them in this cruel manner, under Gunga Govind Sing.

Mr. Hastings has himself defined an amin, in page 1022,

14 JUNE 1794. stating that Nundcomar desired he should make his son an amin:—

> "The promise which he says I made him that he should be constituted aumeen, that is, inquisitor-general over the whole country, and that I would delegate to him my whole power and influence, is something more than a negative falsehood."

He justly and naturally reprobates the horrors of appointing an inquisitor-general over the whole country; and yet we see him afterwards appointing the inquisitor-general, Gunga Govind Sing, over the whole country, in order that a bigha of land should not escape him.

Corrupt motive for its appointment.

Let us see what the end of it is. What leads me directly to the presumption of corruption against him for this wicked aminy scheme is, he wanted to investigate it, from bigha to bigha, soon after he made the settlement of Bengal and Orissa. I will give up the whole scheme, allow it well intended, will forgive the letting all the lands of Bengal by public auction, I shall forgive all he has done with regard to his banyas, I shall forgive him even this commission itself, if he will show your Lordships that there was the smallest use made of it with regard to the settlements. If there was not, then there is but one use obvious to be made of it, namely, to put all the people of the whole country under obedience to Gunga Govind Sing.

We will see what was done. The estimate was made acre by acre. They have not been able to find one word on the records of the Company of any return of this investigation at all, any settlement or assessment of the country founded upon it, or any regulation whatever taken upon it. Therefore, as an honest man, and as a man who is standing here for the Commons of Great Britain, I must not give way to any idle doubts and ridiculous ideas. I cannot give way to say that it was a clear answer. The only purpose that it did answer was, to subject the whole landed interest of the country to the cruel inquisition of Gunga Govind Sing—to the cruel purpose of Mr. Hastings. Show me another purpose, and I will give up that; for, if there are two ways of accounting for the same act, it is possible it may be attributed to the other and to the better motive. But, when we see that a bad thing was done, we must attach a bad motive to it, because the thing was done, and the pretence never fulfilled.

Now I have done with the whole landed interest—disposed of it—in Bengal; and I recommend it to you to suppose

that what I have missed is not from my indisposition to remark upon the matter more fully, but because it has been done already by abler persons, and I only make some practical inferences from it, which, perhaps, might, in the hurry, possibly have escaped them, but which show you that one system of known or justly presumed corruption pervades the whole of this business, from one end to the other. Having stated and disposed of the native landed interest, the native zamindars or landholders of the country, I pass to the English government. 14 JUNE 1794.

My Lords, when we have shown plainly the utter extinction of the native power of the Mohammedan government, when we have shown the extinction of the landed interest, what hope is there for that afflicted country but in the servants of the Company? What hope in the servants of the Company but in the court of Directors? What hope but in British tribunals, who may know these things? I think as well of the body of my countrymen as any man can do. I don't think that any man sent out there is sent with an ill purpose, or with bad dispositions. No; I think the young men who go there are as fair and faithful representatives of the people of the same age, uncorrupted, but corruptible from their age, as we all are. That is the light in which I consider the Company's servants. They are sent there young. There is but one thing held out to them:—"You are going to make your fortune." It is to be the restoration of old, decayed, noble families. It is to be the renovation and the making of new ones. This is the view.

Character of the Company's servants.

Now, when such a set of young men are sent out with these hopes and views, and with no education or a very imperfect one, when these people, from whatever rank of life selected, —many from the best, most from the middling, very few from the lowest, but high, middling or low, they are sent out to make two things coincide which the wit of man was never able to make unite—to make your fortune and form your education, at once. What is the education of all the world? Reading a parcel of books? No! Examples of discipline, of justice, are the education of the world; and, if the Company's servants have that education, and are permitted to give loose to their native feelings, some would be corrupt, of course, but some would be extremely uncorrupt, and the majority of them would be for moderation in this business.

14 JUNE 1794.

Corruption of the service by Mr. Hastings.

Now I am to show you that Mr. Hastings left these servants but this alternative:—"Be starved, be depressed, be ruined; disappoint the hopes of your families; or be my slaves; be ready to conceal everything you know, and be ready to be subservient to every iniquity I shall order you to commit." And, therefore, the Commons did well and wisely when they sent us here, not to attack this, that and the other, servant who might have peculated, but the man who was sent to reform abuses and to make Bengal what it ought to be by his example, and to furnish to the world a brilliant example of a British Governor. We shall state the abuses. We shall state what Mr. Hastings was expected to do. Then we will state what he did; and then we will show you the effects of the whole.

Letter of instructions from the court of Directors.

The Directors' letter to Bengal, 7th April, 1773, page 966, printed Minutes:—

"We wish we could refute the observation, that almost every attempt made by us and our administration at your Presidency for the reforming of abuses has rather increased them, and added to the miseries of the country that we are anxious to protect and cherish. The truth of this observation appears fully in the late appointment of supervisors and chiefs. Instituted as they were to give relief to the industrious tenants, to improve and enlarge our investments, to destroy monopolies and retrench expenses, the end has been by no means answerable to the institution. Are not the tenants more than ever oppressed and wretched? Are our investments improved? Has not the raw silk and cocoons been raised upon us 50 per cent. in price? We can hardly say what has not been made a monopoly. And, as to the expenses of your Presidency, they are at length settled to a degree we are no longer able to support. These facts, for such they are, should have been stated to us as capital reasons why neither our orders of 1771, nor indeed any regulations whatever, could be carried into execution. But, perhaps, as this would have proved too much, it was not suggested to us; for nothing could more plainly indicate a state of anarchy, and that there was no government existing in our servants at Bengal.

"And, therefore, when oppression pervades the whole country, when youths have been suffered with impugnity to exercise sovereign jurisdiction over the natives, and to acquire rapid fortunes by monopolizing of commerce, it cannot be a wonder to us or to yourselves that dadney merchants do not come forward to contract with the Company, that the manufactures find their way through foreign channels, or that our investments are at once enormously dear and of a debased quality.

"It is evident, then, that the evils which have been so destructive to us lie too deep for any partial plans to reach or correct; it is, therefore, our resolution to aim at the root of those evils; and we are happy in having reason to believe that in every just and necessary regulation we shall meet with the approbation and support of the legislature, who consider the public as materially interested in the Company's property.

"In order to effectuate this great end, the first step must be to restore perfect obedience and due subordination to your administration. Our Governor and Council must reassume and exercise their delegated

powers upon every just occasion; punish delinquents, cherish the meritorious, discountenance that luxury and dissipation which, to the reproach of Government, prevailed in Bengal. Our President, Mr. Hastings, we trust, will set the example of temperance, economy and application; and upon this we are sensible much will depend. And here we take occasion to indulge the pleasure we have in acknowledging Mr. Hastings' services upon the coast of Coromandel, in constructing, with equal labour and ability, the plan which has so much improved our investments there; and, as we are persuaded he will persevere in the same laudable pursuit through every branch of our affairs in Bengal, he, in return, may depend on the steady support and favour of his employers. Your settlement being thus put into a train of reform (without which, indeed, all regulations will prove ineffectual), you are next to revert to the old system, when the business of your Presidency was principally performed by our own servants, who had knowledge of our investments and every other department of our concerns. You will, therefore, fill all the several offices with the factors and writers upon your establishment; for, with our present appointments, we are assured there will be sufficient for this purpose; and thus you will banish idleness, and its attendants, extravagance and dissipation. And here we enjoin you to transmit to us a faithful and minute state of the pay, and every known emolument, of all below Council; for as it is notorious that even youths in our service expend in equipage, servants, dress and living, infinitely more than our stated allowances can afford, we cannot but be anxious to discover the means by which they are enabled to proceed in this manner; and indeed so obnoxious is this conduct to us, and so injurious in its consequences, that we expect and require you to show your displeasure to all such as shall transgress in this respect; contrasting it, at the same time, with instances of kindness towards the sober, frugal and industrious." 14 June 1794.

My Lords, you see the state in which the Directors conceived the country to be. That it was in this state is not denied by Mr. Hastings. He is sent out for the purpose of reforming it. They swept away the whole body of Bengal servants for a supposed corruption. They brought a set of new ones, to regenerate, as it were, that country. Mr. Hastings says,—"I was brought like other people into that country." It is true; and I hope it will prove an example and instruction to all mankind, that they never will employ a man who is bred in base and corrupt practices, from any hope of his local knowledge, to be the person fit to correct them. Mr. Hastings says, you could not expect more from him; that he was bred in the common habits of the country.

Unfitness of Mr. Hastings for the reformation of abuses.

My Lords, you might as well expect a man to be fit for a perfumer's shop who has lain a month in a pigsty, as to expect a man, who has been a contractor with the Company for a length of time, to be a fit person for reforming abuses. Mr. Hastings has stated his history, his merits and his services. We have looked over with care the records relative

14 JUNE 1794. to his proceedings, and we find that, in 1760 and 1761, he was in possession of a contract for bullocks and a contract for provisions. It is in no way wrong for any man to take a contract, provided he does not do what Mr. Hastings has condemned in his regulations. No man ought to be a contractor with his masters.

But, though I do not bear upon Mr. Hastings for having spent his time in being a bullock contractor, yet I say that Mr. Hastings ought to have laid aside all the habits of a bullock contractor, when he was made a great minister for the reformation of a great service full of abuses. I will show your Lordships that he never did; that, on the contrary, being bred in those bad habits, and having the education that I speak of formed in him, he persevered to the very last in them. I understand it has been imputed as a sort of crime in me, that I stated something of the obscurity of Mr. Hastings' birth. Could any one believe that any man could be so absurd as to attack a man's birth when he is accusing his actions? No; I spoke of the base, sordid and mercenary, habits in which he was bred. I said nothing of his birth.

But, my Lords, I was a good deal surprised when a friend of mine, yesterday morning, put into my hands, when I was attacking Mr. Hastings' life and conduct, a pedigree. I thought to examine into the records of the Company. They answer by sending me to the Heralds' Office. Your Lordships' pedigrees are very obscure, most of them, in comparison with it. I only wonder how he came to derogate from such a body of nobles by becoming a contractor for bullocks. A man may be a very honest bullock contractor. God forbid that many of them in this country should not be very honest! But I find his terms were so high that they were nearly four times as much as those which the House of Commons had condemned as exorbitant. They were unusually high and badly supplied, and the contract had not been fairly advertised; it was, therefore, agreed to declare the same void at the expiration of twelve months, on the 1st of December, 1763.

His frauds in the bullock contracts.

I do not condemn him for being a bullock contractor, but for being nursed in bad and vicious habits. That of contracting with his masters is a bad habit, as he himself has stated, in a record which is printed by the House of Commons. But I condemn him for being a fraudulent bullock contractor. He was turned out of that contract for fraudu-

lent practices. It was declared void and given to [another] at a lower price. But after he had got it at a lower price, Mr. Hastings, himself condemning his own original contract, which was at twelve rupees for a certain species of bullocks, took the same at seven and four, and so continued, till we find that this price, from being so enormous, was lowered greatly. And, therefore, what I contend for is this,—that he carried with him the spirit of a fraudulent bullock contractor through the whole of the service, in its greatest parts. Now we will read his letter of 1773; in which you will find the seeds sown for the propagation of all this abuse, and for the utter, irremediable, destruction of the whole service. 14 June 1794.

My Lords, wading through all these corruptions is an unpleasant thing for me; but, [what am I to think]* when I see a man hold up his head in this manner, that when a matter of account comes before him, as in this very Defence that I have in my hand, [he declares]* that he does not know when a paper of account is delivered; he cannot keep accounts; that is below him. We find and trace him, through the whole of his conduct, following a great variety of mercantile employments; and, when he comes to you, you would imagine that he had been bred in the sublime sciences, that he never knew any act any further than as it made a part in the business of the sublime matters he was engaged in; that he had been engaged in writing a poem, an Iliad, or something to revive fallen literature! And yet you find this man dealing in accounts; contriving to make up a good account for himself, through the whole of his conduct.

My Lords, we have read to you a letter, by which the court of Directors have described the disorders of their service, the utter ruin of it, the corruption that prevailed in it, the destruction of the country by it, the causes of it in every part of it; in which, when we are said to exaggerate, we use no stronger words than they do. We do not use such strong words; and therefore we must not mince it: you should not mince it. No little, paltry, delicacies should hinder you, when there is a country expiring under all those things, from calling the authors to a regular account for it.

Reply of Mr. Hastings to the Directors.

The court of Directors wrote him that state [of their service]. They recommended to him a radical reformation in it. What does he do? Here is the letter he wrote in 1773, in answer to them. It is in page 2827 of your Lordships' Minutes.

* Revised copy.

14 JUNE 1794. After he has praised them for the trust that they had placed in him, after expressing his highest gratitude and so on, he says:—

"While I indulge the pleasure which I receive from the past successes of my endeavours, I own I cannot refrain from looking back with a mixture of anxiety on the omissions by which I am sensible I may since have hazarded the diminution of your esteem. All my letters, addressed to your honourable Court and to the Secret Committee, repeat the strongest promises of prosecuting the inquiries into the conduct of your servants, which you have been pleased to commit particularly to my charge. You will readily perceive that I must have been sincere in those declarations, since it would have argued great indiscretion to have made them had I foreseen my inability to perform them. I find myself now under the most disagreeable necessity of avowing that inability. At the same time, I will boldly take upon me to affirm that, to whomsoever you might have delegated that charge, and by whatever powers it might have been accompanied, it would have been sufficient to occupy the entire attention of those who were entrusted with it; and, even with all the aids of leisure and authority, would have proved ineffectual.

"I dare appeal to the public records, to the testimony of those who have opportunities of knowing me, and even to the detail which the public voice can report of the past acts of this Government, that my time has been neither idly nor uselessly employed. Yet, such are the cares and embarrassments of this various state, that, although much may be done, much more, even in matters of moment, must necessarily remain neglected. To select from the miscellaneous heap which each day's exigencies present to our choice those points on which the general welfare of your affairs most essentially depends, to provide expedients for future advantages and guard against probable evils, are all that your administration can faithfully promise to perform for your service, with their united labours most diligently exerted. They cannot look back without sacrificing the objects of their immediate duty, which are those of your interest, to endless researches which can produce no real good, and may expose your affairs to all the ruinous consequences of personal malevolence, both here and at home."

His pretended inability to introduce reforms into the service.

My Lords, you see here that, after he has promised to the court of Directors to do what they ordered him to do, and which he admits he had promised, to make a radical reform in their whole service, and to cure those abuses which there they have stated, he declares now he will not. He pleads a variety of other occupations, and leaves that great fundamental grievance he was appointed to eradicate. He declares he will not even attempt it. Why did you promise? It naturally occurs to ask that question. "Why," says he, "you will readily perceive that I must have been sincere in those declarations, since it would have argued graat indiscretion to have made them had I foreseen my inability to perform them."

This is a kind of argument that belongs to Mr. Hastings

exclusively. Most other people would say,—"You may judge of the sincerity of my promises by my zeal in the performance." No;—"You may judge of the sincerity of my promises, because I would not promise if I had not thought I should be able to perform." It runs in a ridiculous circle:—"I promised; that promise is a proof of my sincerity; now I find I cannot perform it; and there is not so much as one grievance of the country, or abuse of the country, that I have searched into and reformed." This is to show that everything was systematical in Mr. Hastings' conduct; that he was resolved to connive at the whole iniquities of the service, because he was resolved that not one of those iniquities should exist that should not be practised by himself. "But," says he, "they can produce no real good, and may expose your affairs to all the ruinous consequences of personal malevolence, both here and at home." This he gives you as a reason why he will not prosecute the inquiry into abuses abroad; because he is afraid that you should punish him for doing his duty, at home—that it will expose him to malevolence at home; and therefore, to avoid being subject to malevolence at home, he would not do his duty abroad. 14 June 1794.

He follows this with something that is perfectly extraordinary. He desires, instead of doing his duty—which he declares it is impossible to do—an arbitrary power! I refer your Lordships to pages 2827, 2828 and 2829, of the printed Minutes, by which you will see the system;—that he is resolved not to use any one legal means of punishing corruption, or for the prevention of corruption; but all that he desires is to have an absolutely arbitrary power over the servants of the Company. There you see that corruption and arbitrary power over the servants of the Company are the foundation of every part of his whole conduct. Remark what he says here, and then judge whether these things are to be eluded by any chicane:— His demand of arbitrary power.

"In the charge of oppression, although supported by the cries of the people and the most authentic representations, it is yet impossible in most cases to obtain legal proofs of it; and, unless the discretionary power which I have recommended be somewhere lodged, the assurance of impugnity from any formal inquiry will baffle every order of the Board; as, on the other hand, the fear of the consequences will restrain every man within the bounds of his duty, if he knows himself liable to suffer by the effects of a single control."

My Lords, you see two things most material for you to consider in the judgment of this great cause, which is the

14 JUNE 1794. cause of nations. The first thing for you to consider is, his declaration that there may be a person pursued by the cries of a whole people, that authentic documents may come out against him, that he may be guilty of the most enormous crimes, and yet legal proofs be wanting. That shows you how seriously you ought to consider, before you reject any proof upon the idea that it is not legal proof. Then I oppose to that the declaration of a gentleman who sits near by his side, Mr. Sumner, which is much more probable:—

Declaration of Mr. Sumner.

"We are convinced by late experience that the most flagrant oppressions . . . . against inferior servants"*

Mr. Hastings says, that the power of the Council is not good against the inferior servants; that it is too weak to coerce them. With much more truth Mr. Sumner, has said, in his minute,—

"You might easily coerce the inferior servants, but that the dread of falling upon persons in high situations discourages and put an end to complaint."

Therefore, I quote the recorded authority of the gentleman near him in the affairs of the Company, and these very grievances, to prove what is infinitely more probable [than what] Mr. Hastings says,—that an inferior servant cannot be coerced; that they must riot with impugnity in the spoils of the people.

Recommendation of Mr. Hastings that the office of Governor General be held in permanency.

But we will go to a much more serious part. After desiring arbitrary power in this letter, he desires a perpetuation of his power; and he gives you a description of a bad governor, to which I refer you; which your Lordships will find, in every part of his proceeding, to be exactly applicable to himself and his own government:—

"The first command of a state so extensive as that of Bengal is not without opportunities of private emolument; and, although the allowance which your bounty has liberally provided for your servants may be reasonably expected to fix the bounds of their desires, yet you will find it extremely difficult to restrain men from profitting by other means, who look upon their appointment as the measure of a day, and who, from the uncertainty of their condition, see no room for any acquisition but of wealth, since reputation and the consequences which follow the successful conduct of great affairs are only to be attained in a course of years. Under such circumstances, however rigid your orders may be, or however supported, I am afraid that in most instances they will produce no other fruits than either avowed disobedience, or the worst extreme of falsehood and hypocrisy.

"These are not the principles which should rule the conduct of men whom you have constituted the guardians of your property, and checks

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* The paper referred to has not been found.

on the morals and fidelity of others. The case of self-preservation will naturally suggest the necessity of seizing the opportunity of present power, when the duration of it is considered as limited to the usual term of three years, and of applying it to the provision of a future independency. Therefore, every renewal of this term is liable to prove a reiterated oppression. It is, perhaps, owing to the causes which I have described, and a proof of their existence, that this appointment has been for some years past so eagerly solicited and so easily resigned. 14 JUNE 1794.

"There are yet other inconveniences attendant on this habit, and perhaps an investigation of them all would lead to endless discoveries. Every man whom your choice has honoured with so distinguished a trust seeks to merit approbation, and acquire an *éclat*, by innovations, for which the wild scene before him affords ample and justifiable occasion."

You see, my Lords, he has stated that, if a governor has but a short time, the consequence would be either an avowed disobedience, or worse extreme—falsehood and hypocrisy. You see that he has had a long time, and that his disobedience is avowed, and his hypocrisy and falsehood are discovered and exposed to your Lordships, in the course of this affair. You see this man has declared that "these are not the principles which should rule the conduct of men whom you have constituted the guardians of your property, and checks upon the morals and fidelity of others." Mr. Hastings tells you himself directly what his duty is, and he tells you himself and reads his condemnation. What was to be expected from him? To give a great example himself and to be a check and guardian of the fidelity of all that are under him.

His self-condemnation.

He declares, in the end of this letter, that a very short continuance in their service would enable him to make a fortune to the height of his desire. He has since thought proper to declare to you that he is beggared and undone, notwithstanding all his irregular resources, in that very service; which is what I read this letter for, to show that Mr. Hastings did enter upon a systematic connivance at the peculation of the Company's servants; that he refused to institute any check to prevent any corruption whatever; that he took no one measure whatever of government agreeable to the positive and solemn engagements in which he entered with the Directors. For which we charge him, not only with his own corruptions, but we charge him with a systematic, premeditated, corruption of the whole service. From the time when he was appointed, in the beginning of the year 1772, down to the year 1785, when he left it, he never detected any one single abuse whatever. He never once put a stop to any corruption in any man, black or

14 June 1794. white, in any way whatever;—in a government of which he himself declares the nature to be such that it is impossible to detect [misconduct] and to give legal evidence [of it], though a man should be declared by the cries of the whole people to be guilty.

My Lords, he desires an arbitrary power over the Company's servants to be given to him. God forbid arbitrary power should be given into the hands of any man! God forbid, if real power means to get at subordinate corruption, that they should not be able to get at it, prosecute and punish it, by the law! But that is the situation in which we were attempted to be put by this man. We know there are cases in which the act of the delinquent is of consequence, and the example of the criminal, from the obscurity of his situation, is of little or no great importance. In others, the act of the delinquent is of no great importance, but the consequences of the example are dreadful. We know that crimes of great magnitude, of great tyranny and universal peculation, can seldom be exercised—can be exercised but by a few people. They are privileged crimes. They are the dreadful prerogatives of greatness and of the first situations only. But when a Governor General descends into the muck and filth of peculation and corruption, when he receives bribes, when he extorts money, he does acts that are imitable by everybody. There is not a single man, black or white, from the highest to the lowest, that is in the smallest degree of momentary authority, that cannot imitate such a Governor General in his acts. Then consider what the consequence is, when the service is, upon principle, that no man is to be called to account as the law is, without saying, either give me arbitrary power, or suffer your government to be destroyed.

Importance of the example set by the Governor General.

We asked Mr. Anderson whether the covenant of a farmer [of revenue] did not forbid him from giving any presents to any persons, or taking any. He says, he did not exactly remember—for the memory of this gentleman is very indifferent, though it is his own particular province—but he thought it did; and he referred to the record of it. I cannot find the record, therefore you must take it from Mr. Anderson, without a reference to the record, that the farmer was forbidden to take or give any money to any person whatever, beyond his engagement. Now, if a Governor General comes to that farmer, and says,—"Give me a great sum beyond your engagements,"—he lets him prey upon others, till he has

Prohibition of the giving or taking presents by the farmers of revenue.

finally desolated the whole country by his malversation, peculation and oppression. Then, Mr. Hastings being put over the whole country to regulate it, let us see what he has done. He says, "Let me have an arbitrary power; I will regulate it." He has assumed arbitrary power, and turned in and out every servant, at his pleasure. Then did he by that arbitrary power correct any one corruption? He does not say he did; because, when a man gives ill example in himself, when he cannot set on foot an inquiry that does not terminate in his own corruption, of course he cannot set on foot an inquiry into the corruption of the other servants. 14 JUNE 1794.

"I cannot," says the servant, "rise"—as Mr. Hastings says properly here—"to the heights of greatness, power, distinction, rank or honour, of government, but I can make my fortune, according to my degree, my measures and my place." His views will be then directed so to make it; and, when he sees that the Governor General is actuated by no other views, and when he himself, as a farmer, is confident of the corruptions of the Governor General, when he knows he has laid it down as a principle that no corruption is to be inquired into, when he knows that, if he had not laid it down, his conduct is such that it is the same as if he had laid it down, then every part of the service is instantly corrupted.

I shall next refer your Lordships to the Article of contracts. Five contracts have been proved before you, the extravagant and corrupt value of which amounts to 500,000*l.* [We have shown]* that these contracts were given to corrupt the Company's servants—were given to corrupt the Company itself in England. You will recollect that 40,000*l.* was given in one morning, for a contract which the contractor was never to execute, to Mr. Sullivan. You recollect he was the son of the principal person in the India direction; and, whether in or out, he was known to govern it, and to be supported by the whole Indian interest of Mr. Hastings. You will see the corruption of Sir Eyre Coote, in giving to Mr. Crofts the bullock contract. You will see the bullock contract stated, to Mr. Hastings' face, and not denied, to be made for concealing a number of corrupt interests. You will see Mr. Auriol's contract given to the secretary of the Company, that he may have the whole records and registers of the Company under his control.

The five contracts.

Their corrupt object.

* Revised copy.

14 June 1794.

You will see that the contract commission for stores and provision—an enormous thing—was given to Mr. Belli; that Mr. Belli was an obscure man, and that Mr. Hastings offers himself as his security, which security he did not afterwards perform. By which you know that Mr. Belli held this for Mr. Hastings.

My Lords, these are things that cannot be slurred. The Governor General is corrupt. He corrupts all about him. He does it upon system. He will make no inquiry, and therefore he squanders away money in these contracts. Observe, these are but five of them. Good God! when you consider the quantity and multiplicity of the Company's dealings, judge you what must be the enormous mass of that corruption. When I have read this document to your Lordships, see whether you are not bound, when he brings them to us and throws upon us the cause of all his corruption—whether your Lordships are not bound to throw and hurl it back upon himself by your decision.

Threat of Mr. Hastings to grant leases to the holders of the contracts.

What I forgot to mention to you about these contracts, considering them as a means of power, is this:—he not only protects the servants, without the least inquiry into their conduct, and with flagrant suspicion of delinquency, but he does a great deal more. He not only does this, but he declares, if he should be removed from that government, that he will give them a lease in these exorbitant profits, for the purpose of securing a corrupt party to bear him out, and to give him evidence, if necessary, and to give him a razinama—to give him a flourishing character, whenever he should come upon his trial. Hear his principle: hear what the man himself avows:—

"Fort William, October 4th, 1779:" page 1447.—"In answer to Mr. Francis' insinuation, that it is natural enough for the agent to wish to secure himself, before the expiration of the present government, I avow the fact as to myself as well as the agent. When I see a systematic opposition to every measure proposed by me for the service of the public, by which an individual may eventually benefit, I cannot hesitate a moment to declare it to be my firm belief, that, should the government of this country be placed in the hands of the present minority, they would seek the ruin of every man connected with me. It is, therefore, only an act of common justice in me to wish to secure them, as far as I legally can, from the apprehension of future oppression."

Here is the principle fully avowed. Under the name of "oppression" he takes for granted that any person who should succeed him would take away those unlawful and wicked emoluments, and give them to some other. "But," says he,

"I will put it out of the Company's power—put it out of the means of redress. I will corrupt the Company's whole service." We are going to read a declaration of Mr. Hastings of the other means of corrupting the whole Company's service. 14 JUNE 1794.

Minute of the Governor General: page 2197 of the printed Minutes. Extract from the minute:—

"Called upon continually by persons of high rank and station, both in the national and in the Company's councils, to protect and prefer their friends in the army, and by the merits and services which have come under my personal knowledge and observation, I suffer both pain and humiliation at the want of power to reward the meritorious, or to show a proper attention to the wishes of my superiors, without having recourse to means which must be considered as incompatible with the dignity of my station. The slender relief which I entreat of the Board from this state of mortification is, the authority to augment the number of my staff; which will enable me to show a marked and particular attention in circumstances such as above stated, and will be no considerable burthen to the Company."

His demand of increase of patronage.

My Lords, you see there what he has been endeavouring [to effect] for the express purpose of his own power, and without any other cause whatever. To enable him to secure himself a corrupt influence in England, he is obliged to do that which brought afterwards so heavy a hand of reform upon the whole army. Here is another point much more material, which declares his principle much more strongly, that brings it directly home to this Court, and puts it to you either to punish him or to declare yourselves to be accomplices in that corruption of the whole service. Hear what the man himself says:—I am to mention to your Lordships, before I speak of this, the occasion. It was when he was making his enormous and shameful establishment of a revenue charge, in the year 1781, to which I shall speak afterwards as an abuse by itself. He felt that the world would be so shocked at the enormous prodigality and corrupt profusion of what he was doing, that he at last has spoken out.

A minute of Mr. Hastings, transmitted in a letter by Mr. Wheler: page 1185:—

"In this, as it must be the case in every reformation, the interest of individuals has been our principal, if not our only, impediment. We could not at once deprive so large a body of our fellow-servants of their bread, without feeling that reluctance which humanity must dictate; not unaccompanied, perhaps, with some concern for the consequence which our own credit might suffer, by an act which involved the fortunes of many, and extended its influences to all their connections.

His apology for prodigal expenditure of the Company's revenues.

"This, added to the justice which was due to your servants, who were removed for no fault of theirs, but for the public convenience, induced us

14 June 1794. to continue their allowances until other offices could be provided for them, and the more cheerfully to submit to the expediency of leaving others in a temporary or partial charge of the internal collections. In effect, the civil officers of this Government might be reduced to a very scanty number, were their exigency alone to determine the list of your covenanted servants, which at this time consists of no less a number than two hundred and fifty-two, many of them the sons of the first families in the kingdom of Great Britain, and every one aspiring to the rapid acquisition of lacks, and to return to pass the prime of their lives at home, as multitudes have done before them. Neither will the revenues of this country suffice for such boundless pretensions, nor are they compatible with yours and the national interests, which may eventually suffer as certain a ruin from the effect of private competition and the claim of patronage, as from the more dreadful calamities of war, or the other ordinary causes which lead to the decline of dominion."

His avowal of corrupt principles.

My Lords, you see before you he declares, of that patronage which he avows as a principle—which he avows as a principle in the last act of his,—he tells you himself that war, pestilence, famine and all calamities together, may not waste and destroy our country so much as this! When does he tell you this? He tells it you when he himself has wantonly destroyed a regular establishment, created a new establishment, and has been obliged to pension that old establishment, out of a principle of common humanity. He is the author of the whole offence. "But,"—says he,—"I could have acted better. I might have avoided desolating the country by peculation; but,"—says he,—"I had sons of the first families in the kingdom of Great Britain, and every one aspiring to the rapid acquisition of lacs, and who would not suffer me to do the duty." I hope your Lordships will prove it to be false. Think what he has said;—two hundred and fifty men aspiring to come home in the prime of their youth with lacs. You cannot take lacs to be less than two. We cannot make a plural less than two; that is 20,000*l.* Then multiply that by 252, and you find more than 2,500,000*l.* for that set of gentlemen. And the claims of patronage—[claims worse than] the most dreadful calamities of war, or the other ordinary causes which lead to the decline of dominion!

His systematic corruption of the Company's service.

My Lords do, for God's sake, consider this plan of corrupting the Company's servants; beginning with a systematical corruption, and ending with an avowed declaration that, for the sake of patronage, he will make enormous contracts, for the sake of securing people from all the consequences of change. "I dare not be honest. If I make their fortunes, you will judge favourably; if I do not make their fortunes, I shall feel myself crushed with a load of reproach and obloquy, which I cannot meet in any other way than by

bribing the House of Peers." What a shameful avowal this to make in the face of the world! But your Lordships will obliterate it all. You remember the time in which he says that he was not to be blamed for not making reformation; but he was making new establishments—the merit of which I shall speak to by and by—knowing and experiencing that he had increased the expense of the Company's service tenfold. He then declares the reason why he had done it was, that, though he should ruin and desolate the country by it, he must make the fortunes of the children, relations and dependants, of the great families of this kingdom. Now publish the pedigree! If these things should be tolerated—but I trust with great confidence your Lordships will not suffer them—what shall be said of the peerage of this kingdom? and what becomes of your pedigrees, when we are to suppose that the ideas of patronage are more dreadful than the calamities of war? 14 June 1794.

We have now gone through what I mentioned of bribing and corrupting the service. As soon as he got rid of that majority, what was he to do? One would imagine, to correct such evils and disorders as had prevailed in it. The court of Directors had supported the majority in all their declarations, and had accused him of corruption and rebellion in all his practice. Now he was free from the yoke of all the mischief of that cursed majority that he deprecates, which I have heard some other people consider as a great calamity—a calamity which prevented patronage. As soon as he was free from this, you would imagine he had undertaken some great and capital reformation; because all the power which the Company could give was in his hands—total, absolute and unconfined.

His establishment and suppression of the provincia councils.

The provincial councils, I am to tell your Lordships, was an establishment made by Mr. Hastings. He was so confident in his own opinion of the expedience of it, that he transmitted to the court of Directors a draft of an Act of Parliament, to confirm it by an Act of Parliament, beyond all mutation. Whatever opinion others might entertain of their weakness, inefficacy, or other defects, Mr. Hastings found no such things in them. He had declared, in the beginning, that he considered them as a sort of experiment, and, in the progress, he found them answer so perfectly well that he proposed even an Act of Parliament to support them. The court of Directors, knowing the mischiefs that innovation had made in their service, and the desolations it

14 June 1794. brought on the country, advise and command him not to take any step for reformation or change in them without their orders. But, contrary to his own declaration, contrary to the sketch of an Act of Parliament which, for aught he knew, the legislature might then have passed,—I know that it was in contemplation to pass about that time several Acts for the regulating of the Company; and, for one, I should have been, and I was, a good deal concerned in it, for fixing some kind of permanent and settled government in Bengal, —he, at that time, without giving the parties notice, turns out of their employments, situation and bread, the provincial councils!

High position of the members.

Who were the [members of the] provincial councils? They were all of them persons of high rank in the Company's service. They were not junior servants—boys of a day, but supposed to be persons who had gone through some probation, who knew something of the country, were conversant in its revenues, conversant in the course of its business, and, in short, the high servants of the Company. What did he do with these people? Without any regard to their rank in the service—no more than he paid regard to the rank of the nobility—he sweeps them in one day from their independent situations; at once, he sweeps them off, without reference to the Directors, and turns them all into pensioners. For what purpose? It was to get the Company's servants, who were too great a mass and volume for him to corrupt,—to get them into his absolute power, and to say,—"You have lost your situations. You have nothing but small alimentary pensions, nothing more than a maintenance; and you must depend upon me whether you have anything more or no." At once, all the Company's servants—the highest order of them—were reduced for their next bread to an absolute, submissive, dependence upon his will, and the Company loaded—which is the thing he alludes to—with the pensions of all these people, which common humanity could not make him curtail. By which means, persons in an honourable, independent, situation, earned by long service to the Company in that country, subject to the orders of the court of Directors, subject to punishment for their crimes if proved against them, are all turned out at once. Then you would imagine Mr. Hastings had proved corruptions upon them.—No; you will see, upon your Minutes, that, when he abolished the councils, he declared, at the same time, that he found no fault with persons concerned in them. Then he has got rid,

Corrupt motive for the suppression of the councils.

Unimpeachable conduct of the members.

your Lordships see, of the whole body of the Company's servants. He has systematically corrupted a part of them; he has connived at the whole. He has destroyed the independence of all the superior orders of them. What does he now do with regard to the Council General itself? They had, by the Act that named Mr. Hastings, the management of the revenues vested in them and entrusted to them. You have seen, by an honourable and able fellow Manager of mine, that he took it wholly out of the hand of the Council; that he named a committee for the management of it, at an enormous expense,—a committee made up of his own creatures and dependants; and that, after destroying the provincial councils, he brought down all the revenue to Calcutta. He ordered a committee, which took it wholly out of the hands of the Council in which the Act had vested it. He took it out of the hands of the Council, without the orders of the court of Directors, and directly contrary to the Act that put it into their hands.

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Illegal appointment of a Committee of Revenue by Mr. Hastings.

Oh! but he reserved a superintendence over them. You shall hear what the superintendence was; and you shall see, feel, smell, touch—it shall enter into every pore and every avenue to the soul. It will show what the principle of Mr. Hastings' government was. We will read what Sir John Shore says of that institution,—the only ends and purposes which it could answer; and then your Lordships will see, and be able to form your judgment, how far he was justifiable in violating an Act of Parliament, and giving out of his own hands the great trust which the laws of his country had vested in him. It is part of a paper before read by Mr. Shore, and recorded by Mr. Macpherson, in 1785. Mr. Shore was sole acting president of this committee to which all Bengal was delivered. He was an old servant of the Company. He is now at the head of the government of that country. He was Mr. Hastings' particular friend; and therefore you cannot doubt that he is a competent evidence, that he is a favourable evidence to Mr. Hastings, and that he would not say one word of the establishment, of which he himself was at the head, that was not perfectly true, and forced out of him by the truth of the case. There is not a single part of it that does not point out some abuse:—

His alleged superintendence.

Presidency of Mr. Shore.

"In the actual collection of the revenues, nothing is more necessary than to give immediate attention to all complaints which are preferred daily without number, and despatch them in a summary manner. This cannot be done where the control is remote.

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His account of the inefficiency of the Committee.

"In every pergunnah throughout Bengal there are some distinct usages which cannot be clearly known at a distance, yet in all complaints of oppression or extortion these must be known before a decision can be pronounced. But to learn at Calcutta the particular customs of a district of Radshahy or Daca is almost impossible; and considering the channel through which an explanation must pass, and through which the complaint is made, any colouring may be given unto it, and oppression and extortion, to the ruin of a district, may be practised with impunity. This is a continual source of embarrassment to the Committee of Revenue in Calcutta. One object of their intention is, to bring the revenues without agency to the Presidency, and all local control is removed from over the renters who pay at Calcutta, or what is called huzzoory. When complaints are made against them, it is almost impossible to discriminate truth from falsehood. And to prevent a failure in the revenue, it is found necessary in all doubtful cases to support the farmer; a circumstance which may confirm the most cruel acts of oppression.

"The real state of any district cannot be known by the Committee. A farmer or zemindar may plead that an inundation has ruined him, or that his country is a desert from want of rain. An aumeen is sent to examine the complaint. He returns with an exaggerated account of losses, proved in volumes of intricate accounts; which the Committee have no time to read, and for which the aumeen is well paid. Possibly, however, the whole account is false. Suppose no aumeen is employed, and the renter is held to the tenor of his engagement, the loss, if real, must occasion his ruin, unless his assessment is very moderate indeed.

"I may venture to pronounce that the real state of the districts is now less known, and the revenue less understood, than in the year 1774. Since the natives have had the disposal of accounts, since they have been introduced as agents and trusted with authority, intricacy and confusion have taken place. The records and accounts which have been compiled are numerous, yet when any particular account is wanted it cannot be found. It is the business of all, from the ryots to the dewan, to conceal and deceive. The simplest matters of fact are designedly covered with a veil through which no human understanding can penetrate.

"With respect to the present Committee of Revenue, it is morally impossible for them to execute the business they are entrusted with. They are vested with a general control, and they have an executive authority larger than ever was before given to any Board or body of men. They may and must get through the business, but to pretend to assert that they really execute it would be folly and falsehood.

"The grand object of the native dewannies is to acquire independent control, and for many years they have pursued this with wonderful art. The farmer and zemindars under the Committee prosecute the same plan, and have ready objections to anything that has the least appearance of restriction. All control removed, they can plunder as they please.

"The Committee must have a dewan, or executive officer, call him by what name you please. This man, in fact, has all the revenue paid at the Presidency at his disposal, and can, if he has any abilities, bring all the renters under contribution. It is of little advantage to restrain the Committee themselves from bribery or corruption, when their executive officer has the power of practising both undetected. To display the arts employed by a native on such an occasion would fill a volume. He discovers the secret resources of the zemindars and renters, their enemies and competitors, and by the engines of hope and fear raised

upon these foundations, he can work them to his purpose. The Committee, with the best intentions, best abilities and steadiest application, must after all be a tool in the hand of their dewan." 14 June 1794.

Here is the account of Mr. Hastings' establishment. Here is what he has substituted for an establishment by Act of Parliament. Here is what he has substituted for provincial councils. Here is what he has substituted for the whole regular order of the service, which he has totally subverted in every part of it. Can we add anything to this picture? Can we heighten it? Can we do anything more than recommend it to your Lordships' serious consideration? Here is an establishment made to destroy the local control of provincial councils. Where there was a local control, it is upon your Minutes, they were capable of exercising that local control. It is upon your Minutes that Mr. Hastings declares that, after this establishment took place in the province of Rungpore, Deby Sing might exercise the most horrible cruelty in it, and the diwan could not possibly know it. This being done, the whole province was given over to ravage. An additional committee was named, at the expense of 50,000*l.* a year, the head of which declares it can be nothing more than a tool in the hand of their diwan. He states all the turning and windings by which it is impossible to come at any falsification of accounts, or any means of detecting corruption, peculation, cruelty, or any enormity whatever.

Disastrous consequences of the suppression of the provincial councils.

You see a system by Mr. Hastings for universal ravage, for universal robbery, for universal oppression, for universal peculation. When I consider the audacity of overturning Parliamentary establishments, of overturning the Company's establishments, when I consider this great, gigantic, establishment, made for the purpose of the universal pillage and corruption of the country, which this man declares is in the power of their diwan, without a possibility of their own control—that all their controls are destroyed—I ask, has the world ever witnessed, since the creation of it, such an enormous, systematic, bold, violent, attempt at the utter destruction of the whole service, the utter destruction of the whole country; sweeping the English wholly from it, putting them as a pretended nominal control, and putting it into the hands of a black diwan, in whose black mystery of iniquity are hid and buried all the means by which you can detect any corruption, wrong, violence, outrage, or defalcation from the revenue? Such a system of fraud, such a

14 June 1794. system of prevarication, such a system made for putting the whole country under the contribution of one man, was, I suppose, never devised since the beginning of the world.

Extortions of Gunga Govind Sing. My Lords, couple this with the aminy scheme. Who is this person that Sir John Shore speaks of, to whose discretionary devastation whole provinces were given? It is Gunga Govind Sing to whom all these things are given! This Gunga Govind Sing was, you find, in four or five provinces, ravaging for Mr. Hastings. This Gunga Govind Sing was, you find, collecting bribes for Mr. Hastings. This Gunga Govind Sing was, you find, forming a private exchequer of revenue, totally separate from the other. Do, my Lords, read: save me the trouble, save the public the trouble, save the country the dishonour, the disgrace, of venturing to judgment, without a mature consideration of page 1280 of your Minutes.

I have described to you the native government as gone; the zamindars as all racked and ruined,—put up first to public auction, afterwards to a cruel inquisition. I have stated that the whole system of the country service was gone. And now the whole revenue is taken so wholly out of them, that they cannot so mnch as see their way in it. Oh! but the Governor General and Council can control it. No; the man at the head of it himself says he cannot, and that it is nothing but a tool in the hand of their diwan. When you consider who this Gunga Govind Sing is, can you for a moment hesitate to believe that this whole plan was made, through the means of Gunga Govind Sing, for putting all Bengal under contribution to Mr. Hastings? You cannot suppose it for any other end or purpose whatever. Therefore, if you will have a good opinion of Mr. Hastings, if you take it into your head, for reasons best known to yourselves, to imagine that he has some virtues which, in the government of Bengal, he has not displayed in any one single instance, let paragraphs in newspapers plead for him, but, when doing this, remember that it is not Mr. Hastings himself that you trust, but Gunga Govind Sing! If the committee are tools in his hands, is not Mr. Hastings a tool in his hands? If they, with whom he daily and hourly is to transact business, were not capable of limiting and restraining him, is Mr. Hastings, who was his confidant, and whose corrupt transactions he could discover at every moment? Do you trust Gunga Govind Sing? If you trust him, be it so. You know Gunga Govind Sing. You

know he is a man to whom the whole revenues, the whole estates, fortunes, lives, families, reputations, of that country are to be delivered over. Then trust Gunga Govind Sing. But Gunga Govind Sing's face is not known in the provinces. He is represented by a variety of under agents. Do you know Govind Ghose? Do you know Nundulol? Do you know this whole tribe of peculators whom Mr. Hastings calls his faithful domestic servants? Do you know all the persons that Gunga Govind Sing must employ, in the various ramifications through all the provinces? Then trust them. Mr. Hastings himself could not control them. It is like sin opening the gates of hell. They could open it, but, says Milton, to shut it surpassed their power. The moment that Mr. Hastings annihilated all the Company's honourable establishments, which, if defective, should have been corrected,—if abuses were found in them, they could be detected and punished, but he destroyed them all; he put the whole country into the hands of Gunga Govind Sing—he could not control it. Gunga Govind Sing could not control the whole herd that, throughout Bengal, Bahar and Orissa, he was obliged to employ.

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Absence of control over him and his subordinates.

Now, having seen all these things done, look to the account, as a mere account of revenue. In this business, you will find, on comparing the three years in which Mr. Hastings was in the minority with the three years after the naming of this committee, the assessment increased; you will find the revenue diminished. And you will find—which is a matter that ought to astonish you with the pertinacious nature of it—that, while the assessment was decreased, the expenses of the collections, which ought to be lessened apparently by the simplicity of the means, were increased in no less a sum than 500,000*l.*! You may judge, from these expenses of the collections, what riot there was in rapacity and ravage, in Europeans and natives, but chiefly natives: for Mr. Hastings did not divide the greatest part of this spoil among the Company's servants, but among this gang of natives.

Consequent loss of revenue.

These accounts are in pages 1273 and 1274 of your Minutes. There you will see, merely considered in a financial light, what a course of peculation there was. But look at it in a political and moral light, which is much more material. Think of a whole country given over to the ravages of these people. Think, when there is no means of detection, no control whatever, this Gunga Govind Sing has all Bengal delivered over to him. If I were to try

Political and moral results.

14 JUNE 1794. Mr. Hastings for nothing else, I would say, you have thrown off the allegiance of the Company, but you have put a black master over yourself; and you have subjected the whole of Bengal, Bahar and Orissa—the Company's servants, the Company's revenues, the Company's farms in this country—you have subjected them all to Gunga Govind Sing!

Traffic in corruption.

It is a very curious and remarkable thing, that we have traced Mr. Hastings' bribe broker, Gunga Govind Sing, to the time of the nomination of this committee. We have traced him through a regular series of bribery. He is Mr. Hastings' bribe broker at Patna. He is Mr. Hastings' bribe broker at Nuddea. He is his bribe broker at Dinagepore. We find him his bribe broker in all these places; but, from the moment this committee was constituted, which he says is a gulf in which all kind of abuses are to sink and be lost for ever—when this committee and Gunga Govind Sing were appointed, you do not find one word more of Mr. Hastings' bribes! Where are you to look for them? You are to look for them in that 500,000*l.* excess. You are to look for them in all the traffic of Gunga Govind Sing, at the time we have proved these known bribes to you. They are nothing but index hands, to point out to you the immense mass of corruption which Mr. Hastings established in this business. And can you think, and can we talk of them, without feeling emotions of indignation and horror, not to be described, at such transactions; or can we go over such grounds, such desolate fields—can we go over such a destroyed country, such subdued people, Mohammedans, Gentoos, and our countrymen, trampled under foot by this tyrant, without feeling those motives which animate us while we live, which will comfort us when we die? And I am happy in being now at the last day, I trust, of endeavouring to inspire and to engage your Lordships in the same feelings.

My worthy colleague has stated Mr. Hastings' particular bribe account to you in clear and satisfactory colours. He has laid it all to Gunga Govind Sing;—him first—him last—him midst! My Lords, you are not going to acquit Mr. Hastings; you are going to confirm all the robberies and rapines of Gunga Govind Sing. Let us rejoice in him. Let the country be proud in him. If Mr. Hastings is acquitted, Gunga Govind Sing's government is the greatest blessing that ever happened to mankind. If Gunga Govind Sing's government is the greatest curse that ever was given

to mankind, there is the man that has given it him. He is his father — his godfather: he is the person that has produced all these evils and calamities.

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The Dinagepore bribe.

I shall only say one word to the Dinagepore business. You have heard that Gunga Govind Sing was a pretty active person in getting a bribe of 40,000*l.* for Mr. Hastings from Dinagepore. My Lords, I have a great encyclopædia of crimes. I will get through them as quick and as fast as I can. I have only to pray your Lordships to believe, if I omit anything, that it is to time I sacrifice; that it is to want of strength I sacrifice; that it is to necessity; and not that I have [omitted] anything from the despair of making it, from the records and from your evidence, as black as anything that I have yet described to you. Mr. Hastings took from Dinagepore at least 40,000*l.*—Mr. Larkins, his confidant, or pretended confidant, declares that he did not know from whom it was taken; that he never saw the kabulyat; that he did not know that it was not five times as much. All that we know is, that a great sum was taken from thence.

Corrupt attempt on the part of Mr. Hastings to make provision for his dependants.

Then the next thing that we find, just before Mr. Hastings' departure, is that he had three faithful servants, Gunga Govind Sing, Govind Ghose and [Bridjoo Kissore Ghose], whom it was necessary to reward before he quits. We there discover the three faithful domestic servants. There is not one of them that we do not find in other parts concerned in this enormous bribery. We find them concerned in betraying their master. If I had time for it, I believe, I could trace every person, in proportion to Mr. Hastings' confidence in him, to be the author of some great villany. He thinks they are not rewarded enough; and accordingly he recommends to the Board, as his dying legacy, a provision for these faithful, attached, servants of his, and particularly for Gunga Govind Sing. Your Lordships will find it in page 2841 of your Minutes. Perhaps it is one of the most curious histories in the world.

This Raja, who was a child at that time of about eleven years old, who came to the Rajaship—by what means I shall say nothing—at about five years old, is made to apply to Mr. Hastings to grant a very considerable part of his estate to Gunga Govind Sing. This is the man who had taken 40,000*l.* at least from his family, and could be only known to it in connexion with that robbery. He is so little satisfied with this bountiful and liberal donation to Gunga Govind

14 JUNE 1794. Sing, that he desires that the pargana of Sultanabad, and other parganas that are mentioned, should be separated from his family estate and given to Gunga Govind Sing. What is very extraordinary, such was his gratitude—not gratitude for money received, but for money taken away, a species of gratitude which is unknown in any part of the world but India,—such was his gratitude, that his mother comes and petitions likewise that her son should be disinherited! An uncle, who should be the natural protector and guardian, comes forward and petitions most earnestly that his nephew should be disinherited! So that the natural guardians, the natural protectors, of the family are all joined in one voice in supplication to Mr. Hastings that Gunga Govind Sing should get a very large and cousiderable part of their family estate!

Mr. Hastings, hearing this, declares what is not true—that he knew that a great part of this was under circumstances which are there stated, and which your Lordships, looking at and comparing, will find to be false and falsified in every particular. Mr. Hastings recommends in the strongest manner to the Board, as he was going away in haste, to provide for these servants. This last act of his [would be] binding upon his successors, who, he knew, were in a manner devoted to him,—at least one was, in a great measure: he desires them to finish this act of his, and to provide for these faithful servants. When Mr. Hastings quitted the government of Bengal, this was his last act. Here is gratitude in Mr. Hastings, for it was for money received; gratitude in them perfectly unnatural and strange, because it was for money taken away! But these two gratitudes all go to one point—the reward of Gunga Govind Sing; who was not rewarded enough for having cheated Mr. Hastings, by his own account, of 20,000*l.* out of 40,000*l.* taken from the Raja. So that, in reward of that cheat and fraud, stated by Mr. Larkins to be such, and allowed by himself to be such, he, with a perfect knowledge of that fraud and cheat committed upon the public—and which he had an intention of giving, he pretends, to it—makes this supplication, and departs.

Departure of Mr. Hastings.

When Mr. Hastings is gone, Gunga Govind Sing, still exercising his empire, has the impudence to come forward again, and demand this from the Council General. The Council, willing to fall in with Mr. Hastings, are stopped in a moment with petitions much more natural, but directly

contrary. The poor infant son raises his infant cries, not to be deprived of his inheritance. His mother comes,—"Do not oppress my son, and wrong my family." The uncle comes, and says:—"For God's sake, save these people I have under my protection." All these petitions come before the Council, while the ink is hardly dry upon the petitions which Mr. Hastings has left, as a proof of the desire of this family to be disinherited in favour of Gunga Govind Sing! This is what they have done; and, accordingly, Gunga Govind Sing was defeated.

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Remonstrances of the Raja and his family.

But what does Gunga Govind Sing do? I desire your Lordships to look upon that seriously in your Minutes. What was his answer? A bold answer. Why, says he, "property in this country depends upon the will of this Government. How comes this Raja Radanaut, and that family, to have got this great zamindary? Why, they got it at the very time by the mere favour of Government." That is a very strange thing to say:—"This has been all done iniquitously. This is a family that, in some former age, have themselves robbed [others], and now let me rob them." No; there is another precedent; and that is, that many clerks and mutasaddis, that is, many clerks and banyas at Calcutta, have got the lands of other people, without any idea of right; "why should not I?" Good God, what a precedent is there! But these impudent declarations before them they rejected. They leave the Raja in possession of his lands.

Reply of Gunga Govind Sing.

Now hear what [his] testimonials are, and judge then of the state in which Mr. Hastings has left that country. For God's sake, read the razinama of this man, from whom 40,000*l.* was taken by Mr. Hastings, who attempted to rob him of his inheritance for Gunga Govind Sing, who had taken that money from him, and who had cheated Mr. Hastings out of 20,000*l.* of it. Read you that razinama, and then judge of the testimonials. We shall not abate them—one of them. They rest upon them; they glory in them. They put the voice of grateful India against the voice of ungrateful England. Now hear what grateful India says, after we have told you for what they were so grateful:—

Fallacious character of the Indian testimonials.

"I, Radanaut, zemindar of pergunna Havelly Penjuna, &c., commonly called Dinagepore:—as it has been learnt by the mutseddies and the respectable officers of my zemindary that the ministers of England are displeased with the late Governor, Warren Hastings, Esq., upon the suspicion that he oppressed us, took money from us by deceit and force, and ruined the country, therefore we, upon the strength of our religion,

Razinama of the Raja.

14 June 1794. which we think it incumbent on and necessary for us to abide by, following the rules laid down in giving evidence, declare the particulars of the deeds of Warren Hastings, Esq.—full circumspection and caution, civility and justice, superior to the conduct of the most learned; and by representing what is fact wipe away the doubts that have possessed the minds of the ministers of England; that Mr. Hastings is possessed of fidelity and confidence, and yielding protection to us; that he is clear of the contamination of mistrust and wrong, and his mind is free of covetousness or avarice. During the time of his administration, no one saw other conduct than that of protection to the husbandmen and justice; no inhabitant ever experienced afflictions; no one ever felt oppression from him. Our reputations have always been guarded from attacks by his prudence, and our families have always been protected by his justice."

"Our families protected by his justice!" When Gunga Govind Sing, after all that money, was going to snatch the greater part of the inheritance of this poor infant out of the mouth of babes and sucklings, here is a child of eleven years old, who never could have seen Mr. Hastings, who could know nothing but by the heavy hand of oppression, affliction, wrong and robbery, is made to come before a British Parliament. Such is the confidence they have that they have bribed the English nation, by sending millions and millions of money and lacs of rupees, that they dare bring this poor robbed infant to bear testimony to the character of Mr. Hastings! And these are the things which are to be opposed to the mass of evidence which the House of Commons bring against this man; which they bring from his own acts, his own writing and his own records; a cloud of testimony furnished by himself, and which we charge agreeably to the magnitude of such a crime, [and urge] with the horror which is inspired at the greatness of the crime, and with contempt at the paltry proceeding which they dare produce to you from the hands of this infant, of eleven years old when Mr. Hastings quitted that place, from this pillaged infant and from that undone country:—

"He never omitted the smallest instance of kindness towards us, but healed the wounds of despair with the salve of consolation, by means of his benevolent and kind behaviour. Never permitting one of us to sink in the pit of despondence, he supported every one by his goodness, overset the designs of evil-minded men by his authority, tied the hand of oppression with the strong bandage of justice, and by these means expanded the pleasing appearance of happiness and joy over us. He re-established justice and impartiality. We were during his government in the enjoyment of perfect happiness and ease, and many of us are thankful and satisfied. As Mr. Hastings was well acquainted with our manners aud customs, he was always desirous, in every respect, of doing whatever would preserve our religious rites, and guard them against every kind of accident and injury; and at all times protected us.

Whatever we have experienced from him, and whatever happened from him, we have written without deceit or exaggeration." 14 June 1794.

Before I have done with this affair of bribes and with the great bribe broker, let me just remark to your Lordships upon one curious transaction. My Lords, we have charged a bribe and a corrupt and scandalous proceeding with respect to the Nawab. We thought we had done with Oude; but, as there is a golden chain among all the virtues, so there is a golden chain, we may say, among all the vices. Mr. Hastings, you see—and my honourable colleague has opened it fully—Mr. Hastings received a bribe or corrupt present from the Nawab of Oude, in September 1781. We have heard no more of this matter. Not one trace of it has ever appeared in the Company's records; but a private letter was written by Mr. Hastings to the court of Directors, and afterwards there came a communication, such as you have heard, through Mr. Larkins. Till October 1783, we heard no more of the bribes of Oude.

Receipt by Mr. Hastings of a bribe from the Nawab.

But, my Lords, we found, by the violent disputes which took place between Mr. Hastings and the clan of Residents that were in Oude—the Resident of the Company, Mr. Bristow, the two Residents of his own, Mr. Middleton and Mr. Johnson, and the two Residents to watch over all the Residents, Major Palmer and Major Davy—upon a quarrel between them, we discovered that Mr. Middleton received an offer and a present of 100,000*l.* in February 1782. That account is in a letter of Mr. Middleton's, in which he informs Mr. Hastings that the Nawab had destined such a sum for him.

Its discovery.

The first thing that will occur to your Lordships upon such an affair is, to know what it was that did happen. But, the September before, Mr. Hastings had received to his private use, as the Nawab conceived, so bountiful a present as 100,000*l.*; what motive could he have had in February to offer him another 100,000*l.*? This man at the time was piercing heaven itself with the cries of despondency, despair, beggary and ruin. You see he was forced to rob his own family for the Company, and yet this is precisely the time when he thinks proper to give 100,000*l.* to Mr. Hastings. Does not the mind of every man revolt, and say,—"What! another 100,000*l.* to Mr. Hastings? What reason had he to think Mr. Hastings so monstrously insatiable, that having but the September before received 100,000*l.*, he must give him another in February?"

14 JUNE 1794.

My Lords, he must within that time have threatened the Nawab with something horrible, from which he was to redeem himself. You can assign no other motive for his giving it. We know not what answer Mr. Hastings made to Mr. Middleton upon that occasion; but we find, in the year 1783, that, on these quarrels, Mr. Hastings asserts that he sent up Major Palmer and Major Davy in the May following—that was May 1782—to persuade the Nawab to transfer this present, which he intended for himself, to the Company's service. Remark, my Lords, the progress of this affair. Mr. Hastings calls [to account], upon other accusations, not mentioning a word of this, Mr. Middleton and Mr. Johnson, under the most severe marks of his displeasure. He leaves Major Palmer and Major Davy there, and he makes an impeachment against Mr. Middleton and Mr. Johnson. He makes it in six or seven articles. He is at once in the curious characters of prosecutor, witness and judge.

Charges brought against Mr. Middleton by Mr. Hastings.

In these three characters then you have him. Let us see how he comports himself. I shall only state to you one of the articles of his impeachment. It is the third charge: it is in page 1267 of your Lordships' Minutes:—

"For sending repeatedly to the Vizier and to his minister, Hyder Beg Khan, to advise them against transferring the ten lacks of rupees, intended as a present to the Governor General, to the Company's account, as it would be a precedent for further demands, which, if the Vizier did not refuse in the first instance, the Government would never cease to harass him for money."

The first thing that occurs to your Lordships is, what Mr. Hastings', the accuser's, representation is:—

"I am morally certain that jaydaads or assets for ten lacks, either in assignment of land or in bills, had been prepared, and were in the charge or possession of Mr. Middleton before Major Palmer's arrival, and left with Mr. Johnson on Mr. Middleton's departure."

My Lords, here is the accusation;—that Mr. Middleton had actually received money, either in bills or assets of some kind or other,—bills, money, or assignment upon the revenue; that he had handed it over on parting to Mr. Johnson. Here is the fact: here is a sum of money to be accounted for, in which there is a gross malversation directly charged as to these particulars, in Mr. Hastings' opinion. Mr. Macpherson at the same time says, that he had understood at the time that ten lacs were in bills, and that it was not a mere offer to pay such a sum from the future revenues of the country. Mr. Hastings has that disclosed before him. He

declares himself that he was "morally certain" of it; that is, as certain as a man can be of anything, because physical certitude does not belong to such matters. 14 JUNE 1794.

Then the first thing you would naturally ask is—why does not he charge Mr. Johnson with asking him—"How did you dispose of that money which Mr. Middleton gave you?" No such thing. He drops that totally, as if it were no part of the matter in question; and the impeachment dies. Why was not that money applied to the Company's service? Mr. Johnson boldly steps forward:—"I prevented it from being applied to the Company's service. It never was, it ought not to be. The demand you made was enormous upon that occasion."

What does Mr. Hastings do? Does he examine Mr. Middleton upon the subject, who charges himself with having received the money? Mr. Middleton was at that very time in Calcutta, called down there by himself. It was natural to call him in support of the impeachment:—"Mr. Middleton, come and explain what you did with this money." No. Did he examine Mr. Johnson himself, who was accused of having the money of Mr. Middleton?—"What did you do with that money?" Not one word. Did he send for Major Palmer and Major Davy to account for it? No. Did he call any sarraf, any banker, any one person concerned in this money, any one person in the management of the revenue? No; not one word. But, directly contrary to his own assertions, directly contrary to his moral conviction of the fact, he tries Mr. Johnson collusively and obliquely—not upon the account of what was done with the money, but why it was prevented from being applied to the Company's service; and he acquits him in a manner that, I verily believe, taking the whole of it together, will give your Lordships the finest idea of a Bengal judicature exercised by Mr. Hastings that ever was seen:—

His collusive prosecution of Mr. Johnson.

> "I am not sorry," says he, "that Mr. Johnson chose to defeat my intentions, since it would have added to the Nabob's distresses, but with no immediate relief to the Company. If in his own breast he can view the secret motives of this transaction, and on their testimony approve it, I also acquit him."

Acquittal of Mr. Johnson.

Merciful God! Here is a man accused by regular articles of impeachment. The person declares he is morally certain that the money has been prevented from being applied to its destination; and he acquits him! Does he acquit him from his knowledge—from any evidence? No; but he

14 JUNE 1794. applies to the man's conscience, and says,—"If you in your conscience can acquit yourself, I acquit you." Here is a thing of the most astonishing and shameless nature in the world:—a court trying a man for a delinquency and misapplication of money which actually, in his own opinion, was set apart for himself, and which he would have applied to the Company, without regard to his own interest, the Company's good, or anything else; he declares he is not sorry for that thing for which he accuses him, and he applies to the man's own conscience:—"Does your conscience acquit you?" He does not answer whether it does or not, but Mr. Hastings hypothetically upon that acquits him!

Omission on the part of Mr. Hastings to offer an explanation of the transaction.

Mr. Hastings is accused by the Commons. They charge him with a moral certainty that that money was intended for his use, and that he never could have ceased to inquire into it upon any public or private motive, but from corruption. He is charged with that. He comes to make his defence. Mr. Middleton is in England. Does he call Mr. Middleton to explain it here? Does he call upon Mr. Johnson, who was the other day in this Court, to account for it? Did he, when sending for these curious papers and testimonials, send to Major Palmer, who is the person who accused him in this business? Why not send for him to bear some testimony of it? No. He had time enough, but at no time and in no place did he do this. Therefore, the most monstrous of all the charges of bribery that we have made upon him attaches upon him, joined with the infamy of a collusive prosecution, for the sake of a collusive acquittal upon this occasion. But when he and Mr. Macpherson sit down together, and the business is to be settled by a vote and resolution of the Board, this acquittal is withdrawn. They neither acquit him nor condemn him. They refer the whole matter to the court of Directors, who were not in the place, who could not examine one article of the evidence—Mr. Hastings was in possession of all the evidence himself—who knew nothing of Oude.

Reference of the case of Mr. Johnson to the court of Directors.

If your Lordships can bear it, I hope I shall finish to-day. I am ashamed and sorry to detain you so long, but I am sure your Lordships see you have a cause before you that will sufficiently justify it.

We have shown to your Lordships the miserable fraud that is in this business. We have shown you the abuse and perversion of an apparent court of justice, inquiring into it. We have shown it referred to the court of Directors, who

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could not determine upon it. And then Mr. Johnson comes forward himself, and he comes forward with dignity. Says he,—"Do not refer my case to the court of Directors. You are upon the spot; you can judge whether I am innocent or guilty. Therefore declare now whether I am innocent or guilty, and tell the court of Directors what you think of me." That just and reasonable request made by Mr. Johnson they refused to obey. They lay that matter before the court of Directors; and the next thing we hear is, that Mr. Hastings has declared that Mr. Middleton was bad enough—they find him guilty of five charges; this third charge, you see, is suspended and left to the court of Directors who could not judge in it: they find him guilty of five charges out of six, and then the next thing you hear is, Mr. Hastings says he is very bad, but that other people are ten times worse; and then he directly appoints him to one of the most honourable and confidential offices the Company had to dispose of: he sends him ambassador to the Nizam, to give an idea to all the courts of India of the justice, honour and decency, of the British Government!

Remonstrance of Mr. Johnson.

His promotion by Mr. Hastings.

My Lords, with regard to the bribe of the entertainment, I only beg leave to make one observation to you upon that entertainment. I could have said, if the time would admit it, a great deal, but I wish to compress it and only to recommend it to your Lordships to compare it with the covenant. The covenant was made for the express purpose of putting an end to such entertainments, and orders that no presents of above 200*l*. shall be accepted, upon any pretence. The covenants were intended to put an end to the custom when visiting an oriental prince. Your Lordships have seen he was no prince, but a poor, miserable, undone, dependant of the Company. He took it at a time when he was sent upon the most cruel commission—to cut down his allowance from 400,000*l*. to 260,000*l*.—and when he was striking out ten thousand people who depended for bread upon it, and ruining perhaps forty thousand others. I shall say no more upon that; though, in truth, it is a thing upon which much observation might be made.

Illegal receipt on the part of Mr. Hastings of the entertainment money.

I shall now pass to another article, which is a separate thing from bribery; that is, the resource he has opened of swindling. Taking presents, justified; taking entertainments, justified. All these were justified; one, because it was a custom and a profitable custom to himself; the other, because he intended well. He intended to give it the

14 JUNE 1794. Company, though he was robbed by Gunga Govind Sing of half of it. At last Mr. Hastings comes to make amends, as people sometimes do when they have acted very ill. He offers his bond. He engages to give Raja Nobkissin his bond for money, which Mr. Larkins, his private book-keeper, declares was borrowed upon credit upon his bond. He afterwards desires that that bond should be given up. He calls to him for the bond. He flies to England. And what is the answer to the bond? Payment?—No! Giving up the bond?—No! Says he,—"I will account to the Company for it." And, when he comes to account to the Company, it is the most astonishing thing in the world, when you come to the items. One is, founding a Mohammedan college. It is a very strange thing that Raja Nobkissin, who is a Gentu, should be made by Mr. Hastings to found a Mohammedan college. Mr. Hastings himself is a Christian—or has been thought a Christian. We will allow him to grow pious, and, as many men do who have spent their lives in fraud, rapacity and peculation, make an amends by private foundations. Supposing Mr. Hastings took it into his head to turn Mohammedan—Gentu he could not—and designed by a Mohammedan foundation to expiate his offences. Be it so. But why should Nobkissin pay for it? But, when I consider of what nature it was, I believe a more extraordinary history never did appear in the world.

His delivery of a bond to Nobkissin.

His foundation of a Mohammedan college.

In the first place, he stated to the Council on the 18th April, 1781, that, in the month of November, 1780, a petition was presented to him by a considerable number of Mussulmans; [in compliance with which this Mohammedan college appears to have been founded].*

He next says, that many students in about six months had finished their education. You see what a hot-bed of bribery and corruption this is. Our University cannot finish an education in six years. They have finished their education, to take degrees, perfectly in six months, completed in all their studies!

Mr. Hastings says,—"I have borne it to this time at my own expense. I desire now the Company will put it to theirs." He calculates what the expenses were. He calculates that the building would cost about 6,000*l*. He gets from them a bond to raise money for paying this 6,000*l*. This is the account he gives of this proceeding.

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* Revised copy.

You apparently have it now at the public expense, and Mr. Hastings has carried to his own account but six months. Then he desires that a tract of land should be given, to the value of about three thousand odd pounds a year; so that here is a handsome foundation; and that, in the mean time, there should be a certain sum allotted for its expenses. Mr. Hastings writes from the Ganges, when expiating his offences to the Company, in which he says not a word about the expense of this building. He then says that the college was maintained at his own expense, though it was thought to be maintained by the Company; and we find that this, which he does not pretend to have founded—that the very professor upon whom it was to be settled never so much as arrived in Calcutta, or showed his face there, till September, 1780. April, 1781, is the time he fixed for it—look at Mr. Larkins' private accounts—and he charges the expense of this to have commenced in October, 1779. It is no error, because it runs through and is accounted in the whole; and [it thus appears] that he has charged, falsely and fraudulently, a year more for that establishment than it cost him.

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Falsity of his accounts.

But, at last, when he was coming away,—for I hasten through the affair, wishing your Lordships seriously to consider it, to consider a thing ludicrous, indeed, in some respects—at his departure, he says, that, having experienced for three years the utility of this institution, he recommends that they will establish a fund for 3,000*l.* a year for it, and give it to the master. Mr. Hastings departed, leaving Gunga Govind Sing as a legacy upon the Company, and leaving this as a Mohammedan legacy upon the Company.

Mr. Chapman's report upon the state of the college.

The Company hearing that this was become the greatest nuisance in Calcutta, that this college had raised the cries of all mankind against it, his own friend, Sir John Shore, sent a Mr. Chapman to examine into it, and this is the account he gives of it:—* . . . . .

When we come further, my Lords, we find that this was a seminary of robbers, housebreakers, and every nuisance to society; so that they were obliged to turn out the master, and they were obliged to change the whole. By this you may judge of the rest of the set off. It began in fraud, injury and peculation, and ended in making a seminary for robbers and housebreakers.

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* The paper referred to has not been found in the printed Minutes.

14 JUNE 1794. Having stated the revenues and all this sort of things, we state Lord Cornwallis's account as to the condition in which Mr. Hastings left the whole province of Bengal. I am willing to conclude now, but, having exhausted your Lordships upon this occasion, if you please, I shall not detain you on Monday above, I should hope, an hour. But I will go on now, if your Lordships think fit.

Earl of Mansfield.—Go on—go on.

Mr. Burke.—Then, if you please, let the cause stand here. I shall only make a summing up of some articles ; and, if you will have the indulgence to give me, on Monday, about an hour or an hour and a half, I shall certainly finish it.

CONCLUSION OF THE SPEECH OF THE RT. HON. EDMUND BURKE, MANAGER FOR THE HOUSE OF COMMONS, IN GENERAL REPLY ON THE SEVERAL CHARGES; 16 JUNE, 1794.

My Lords,—I should think it necessary to make an apology to your Lordships for appearing again to you one day more, if I were inclined to measure this business either by my own ability, by my own impatience, or by any supposed impatience of yours. I know no measure in such a case but the nature of the subject and our duty with regard to it. My Lords, therefore, you will permit me in a few words to lead you back to what we did yesterday, that you may the better comprehend the manner in which I mean to conclude to-day. 16 June 1794.

My Lords, we took the liberty of stating to you the situation of Bengal. We have stated the classes and kinds of inhabitants of which [the population] consisted. We stated to you, first, the Mohammedan inhabitants, who had the justice of the country in their hands; and we showed to you that we proved the utter ruin of that body of people, and with them the justice of the country, by having both one and the other sold to an infamous woman, called Munny Begum. We showed that the whole landed interest of the zamindars in the country was ruined, by giving them over by a five years' lease to infamous farmers, and afterwards to have their titles, their rank and their affairs, scrutinised, to the minutest articles, under pain of criminal punishment, by a nefarious villain, called Gunga Govind Sing. We then showed that the other branch of that, which was the English, was partly corrupted, partly subdued, and partly broken, and the whole English authority subverted, diminished in product, and overcharged in four years 500,000*l.* in expenses, in consequence of this corrupt, dangerous and mischievous, project. Recapitulation.

We have stated that the Company's servants were corrupted by contracts and jobs. We proved that those that were not so corrupted were removed from their stations and

16 JUNE 1794. rendered dependent. We showed you the destruction of the provincial councils; the destruction of the Council General; the formation of a Committee, for no other ends in the world but for the purposes of bribery; and then we stated some of the most monstrous acts of that bribery, which have been last insisted upon—though I believe, in your Lordships' opinion, they were proved of most consequence—by my colleagues. They were not insisted upon; they were, certainly, stated, but not so much insisted upon, because they thought they had been insisted on abundantly before, and that they had received no answer; but having received satisfactory answer upon that subject, or any that is worth mentioning, should not hinder us from recalling to your Lordships the nature of one of those proceedings.

The proceedings to which we wish to call your attention were upon the second bribe given by the Nawab of Oude to Mr. Hastings. Mr. Hastings' own knowledge and opinion that that money was set apart for his use, either in bills or in assets, I have stated, and wish to call your Lordships' minute recollection to the fraudulent manner in which any pretended impeachment, for the purpose of stifling an inquiry into that real business, was carried on. Your Lordships remember that I proved to you, upon the face of that proceeding, the principle of that collusion—that the real state of the case was not charged; that Mr. Hastings acquitted that man contrary to his own avowed, declared, moral conviction, upon a pretended inspection into the conscience of the man; though he would not give him a complete, formal, official, acquittal, but referred it to the court of Directors, who could know nothing of the matter, without one article of evidence whatever produced at the time or transmitted.

We proved to you afterwards that, without any reason, finding him guilty of five charges, and leaving the other undecided for the court of Directors, but acquitting him on it by himself, against the decision of his own conscience avowedly, he appointed him to a great office. This is brought for two purposes; first, to show the corrupt principle of the whole proceeding; next, to show the manner in which the Company's servants are treated. That is, they are first accused, till they are brought to submit to what terms shall be thought proper. They are then acquitted of the most atrocious crimes charged against them; and then they are not acquitted, but condemned, on some articles, with a weight and

Object of the proceedings against Mr. Johnson.

scourge hung over them. In other [instances, they]* are sent to be rewarded by the greatest, most honourable and most lucrative, situations in the Company's service. These are stated upon the principle and ground upon which I state everything that is due to the wicked, pernicious and ruinous, principles of Mr. Hasting's government; which if your Lordships should ratify, they become, not his government and principles, but the government and principles, rejected indeed by the Commons, but adopted by the peerage of Great Britain.

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Receipt of entertainment money by Mr. Hastings.

There was another article which I have just touched upon, but I must do more than notify the evil example of it; that is, the taking great sums of money under pretence of an entertainment. Your Lordships recollect that this business, when charged in India, Mr. Hastings neither affirmed nor denied. No confession could be extorted out of him. He appeared before the House of Commons. He still evaded a denial or a confession of it. He appeared before your Lordships; and, in his answer to your charge, he, in the same manner, evaded either a confession or a denial. He made us employ a great part of a session in endeavouring to establish what we have at last established, and, as we conceive, seven lacs more upon him; and, at length, when we thought that that sort of proof could not be evaded, and after fighting through the whole defence which the law [could interpose], at last he, with a degree of effrontery that has, I believe, no example in the world, confesses, avows, and justifies it. This, I will venture to say, is a thing that never was or could be done without some degree of shame and humiliation. If it was an honourable and avowed, proper, just, practice, why not declare it in every part and stage of this progress? Why should he put us to the necessity of wasting a whole session in the proof of it, and then, when we have proved it, and not before, confess it, avow it, and even glory in it?

His justification of the practice.

The sum that was charged to be so taken by way of entertainment made a part of the charge that was made by Nundcomar against him, but only a part, a single article; and, when we find him confess that single article and evade the others, without giving any reason under heaven why one should be rejected rather than the other, your Lordships will judge that the admission of one proves the other, if we had

Nundcomar's charge against him.

* Revised copy.

16 JUNE 1794. given no other proof. We think we have proved it very satisfactorily; but [whether we have or not, the way of a single present received is sufficient],* as the whole of what I take the liberty of ever mentioning to you is all grounded in principles that you are to establish. The principle to be established upon this bribe is this:—whether or no, a Governor General paying a visit, in his situation, to any of the poor, miserable, dependent, creatures, called sovereign princes in that country—which, your Lordships remember, I showed to you clearly Mr. Hastings declared to be nothing but phantoms, that they have no one attribute of sovereignty in the world about them—whether they are to be considered as sovereign princes, so that any custom shall justify taking from them great sums of money, by way of a present.

Question at issue.

Dependence of the Nawab.

But I am first to state to you that he was not a sovereign prince, nor a country power, in any but that sense in which the Company [meant to exempt them from the custom of making presents. They]* wanted to prevent persons availing themselves of a prince in real dependence, from whom money could be extorted under the name of his sovereignty, which was in reality obtained from his weakness, his hopeless and unprotected condition. You are to judge whether or no this custom—for it is insisted upon by his Counsel, and with great glory, that it must be taken to be a thing which he could not evade; that he must break through all the usage of the country, and violate every principle established by the most clear law of India, if he did not take such bribes or such presents—[is to be admitted as his justification].*

The Company have made a covenant with Mr. Hastings on this very account of extortion, because of the injuries that these people have suffered under the name or pretence of [presents]. Now permit me to state the covenant, which is in page 960 of your printed Minutes:—

Covenant for the prevention of the receipt of presents by the Company's servants.

"That they should not take any grant of lands, or rents, or revenues issuing out of lands, or any territorial possession, jurisdiction, dominion, power or authority, whatsoever, from any of the Indian Princes, Subahs, or Nabobs, or any of their ministers, servants or agents, for any service or services, or upon any account or pretence whatsoever, without the license or consent of the court of Directors."

This clause in the covenant had a regard to my Lord Clive and to Sir Hector Munro, and to some others, who received gifts and grants of jagirs and other territories from

* Revised copy.

the Company, which, however justifiable they might be at a time when we had no real sovereignty in the country, the Company very wisely prohibited afterwards, that under that pretence they should not have a means of extorting from the sovereigns, or pretended sovereigns, of the country any of their lands. But [in consequence of] several abuses that happened afterwards, which were proved before us in the year 1773, and reported in our House, and particularly of their visiting the princes of the country—such as that, upon the evidence of Mohammed Reza Khan, which appears upon your Lordships' Minutes, they extorted, under one name or other, and chiefly by pretence of a visitation to these powers, great sums of money—therefore this covenant was made:— 16 JUNE 1794.

"They shall not, directly or indirectly, accept, take or receive, or agree to accept, take or receive, any gift, reward, gratuity, allowance, donation or compensation, in money, effects, jewels, or otherwise howsoever, from any of the Indian Princes, Sovereigns or Nabobs, or any of their ministers, servants or agents, exceeding the value of 4,000 rupees, for any service or services performed by the said Warren Hastings in India, or upon any other account or pretence whatsoever."

Here, my Lords, he is prohibited to accept, upon any pretence whatsoever, and under name of allowances, specifically charged by the name of allowance, in compensation for anything else, from any Nawab whatsoever in that service, high or low,—he is not to receive any sum above 4,000 rupees; that is to say, anything above 400*l.* Now, the sum that is here received is 18,000*l.* sterling, by way of a present, under the name of an allowance for an entertainment, which is the precise thing which his covenant was made to prevent. The covenant suffered him to receive 400*l.* If he received more, that moment he became a criminal, broke his covenant, and forfeited the obligation he had made with his master—an obligation made to prevent this very specific abuse. Think with yourselves, my Lords, what you do when you avow this principle; for, as the fact is avowed, there is an end of it. Here is the covenant that positively prohibits a present, under any name, pretence, qualification or description, whatever, to be more than 400*l.* He takes 18,000*l.*; and then he justifies it upon the custom which his covenant was made purposely to reprobate and destroy. Breach of the covenant by Mr. Hastings.

Good God! my Lords, where are we? If they conceal their gifts and presents, they are safe by their concealment. If they avow them, they are still safer. They plead the custom of the country and the custom which we have intro-

16 JUNE 1794. duced into the country; [customs which]* have been declared to be a system of the most abominable corruption, the most flagitious extortion, the most dreadful oppression to the country; and, when they come and plead that very custom which their covenant is made to abolish, think where your Lordships are. You have before you a covenant declaring that he should take, under no name—I do not know how words could be studied in the English language more to exclude this—when they declare that he shall not take more than 400*l.* He says,—"I will take 18,000*l.*;" and he desires your Lordships will declare that he ought to have broken his covenant and taken this great sum of money. Do not let it, under any idea of tenderness for the criminal, escape your minds. He neither pretends to say that this money is intended, either inwardly, outwardly, or in any way, intended for the Company's service; but he put absolutely into his own pocket 18,000*l.* besides his salary!

Danger of admitting his plea of custom.

Consider the policy of this kind of iniquity. If any servant of the Company, high in station, chooses to make a visit from Calcutta to Moorshedabad, which Moorshedabad was then the residence of our principal revenue Government—if he should choose to take an airing, if he should choose to go in one of these boats which Mr. Hastings charges Nundcomar with, these handsome barges or budgerows, for his health to Moorshedabad, which is but a day or two's journey by land, he can put 20,000*l.* into his pocket, any day he pleases, in defiance of all our Acts of Parliament, covenants and every regulation.

Do you make your laws—do you make your covenants—for the very purpose of being evaded? Is a British tribunal to sit here—is it a fit subject for epigram, and a proper subject for others to laugh at, when we speak of our laws and the shocking breach of them, and at the same time the more flagitious [defence of the] breach of them? The world is not to be trifled with. You will never trifle with the world: you will never trifle with your duty. You have a gross, horrid, piece of corruption before you, declared, but endeavoured to be defended upon a principle that totally evades the covenant:—"I have nothing to do but to say, 'The Nawab came half way to meet me:' or, 'I to go to Moorshedabad,' to set aside and laugh at that covenant."

* Revised copy.

Is this the state of the covenant by which you would bind the servants of the Company from fraud and oppression, when they have nothing to do but to amuse themselves with a tour of pleasure to Moorshedabad, to put any sum of money in their pocket that they please? 16 JUNE 1794.

They justify themselves by saying such things have been practised before. No doubt they have. And these covenants were made that they should not be practised any more. It was the end and object of these covenants to prohibit any great allowance, reward or donation; which this Act positively forbids. Your Lordships are desired, at the same time, to say, that that very custom which the covenant is made to destroy—that that very grievance itself shall be pleaded, the abuse shall be pleaded, to destroy the law, and to enable any man, at any day or hour he pleases, to pay a visit to Moorshedabad or any other place, and put any given sum of money he chooses into his pocket. It is impossible, I venture to say. The doing the thing is not half such an affront to justice as the justification; nor tends to vilify or degrade the dignity of the Peerage and the Commons of Great Britain, before one of which, and against the other of which, such a justification is produced in the face of the world; namely, an infinite aggravation of the crime. The Commons will never vote him that money. Your Lordships, I trust, will concur with the Commons that he has robbed the Nawab of that money,—a poor, helpless, insignificant, creature, as we have proved.

True nature of his alleged justification.

At the same time that we wish your justice upon this man, always remember, the severest justice upon him is the tenderest pity to other people. Consider, you have the state of the people before you from whom he took this sum of money, in direct defiance of his covenant. Were they richer, were they more opulent, more flourishing, than in the state in which the country was when Mr. Sumner—when Mr. Vansittart—in short, the long line of persons that were concerned in these things—visited the country? No; they were not. Mr. Hastings, at this very time, reduced the Nawab from 450,000*l.* sterling a year, and from other considerable domains and revenues, to 160,000*l.* He was indeed an object of compassion. He was not only reduced to that sum, but was actually a minor. He could do no one valid act under heaven; but yet he is competent to give away, under the name of compensation for entertainments, all he has in the world!

Poverty of those from whom the presents were extorted.

10 JUNE 1794. Your Lordships will consider his reduced state. Look at your Minutes, and you will find Mr. Hastings says, the bread of ten thousand persons depended upon the greatness and state of the Nawab; that his heart was cut and afflicted to see himself obliged to destroy and ruin so many of the Mohammedan nobility, the greatest part of whose remaining miserable allowances was taken. You know it is the nature of the eagles and more generous birds of prey to fall upon living prey, but vultures and carrion crows, and birds of that base and degenerate kind, always prey upon carcases. It is upon ruined houses—it is upon decayed families—it is upon extinguished nobility—that Mr. Hastings chooses to prey, and to justify his making such his prey.

Position of Mr. Hastings at Moorshedabad.

But it is a custom, upon ceremonial and complimentary visits, to receive these presents. Do not let us deceive ourselves. Mr. Hastings was there upon no visit either of ceremony or politics. He was a member at that time of the Committee of Circuit, which went to Moorshedabad for the purpose of establishing a system of revenue and a settlement of the country. He was gone up upon that business only as a member of a Committee of Circuit, and for which business he was, as other members of the Committee of Circuit, amply paid, besides his salary. He had an ample salary. The profits and salary amounted to about 30,000*l.* a year. Not satisfied with that, without incurring any new known expense of any kind or sort, he was paid for the extra expenses of his journey, as appears in your Minutes, like other members of the Committee of Circuit. So that, in fact, he was on no visit there at all. He was executing his duty in the settlement of revenue, as a member of the Committee of Circuit. I do not mean to praise that Committee of Circuit in any way. God forbid I should! for we know that it was a committee of robbers. He was there as one of that Committee of Circuit, which I call a committee of robbers; and I am pretty well justified in doing that, because the court of Directors with the Board of Control, in the year 1786, say that the five years' settlement—which was a thing originating out of that business—was bought and sold. So they say in paragraph 80. Your Lordships may, whenever you please, have recourse to it. It is suggested to me, Mr. Hastings said to Hussein Reza Khan, the Wazir's minister:—

Corruption of the Committee of Circuit.

Mr. Hastings' pretended refusal of the present.

"I cannot, [consistently with the rules of the service, accept of your nuzzir, which has been presented to me; but, for your satisfaction, have

received it for the Company, and ordered it to be carried to]* their account." 16 JUNE 1794.

He receives a nazar, not publicly for the Company, nor ordered to be carried to their account; and that nazar is not like a gold mohur or an orange sometimes [given] as an acknowledgment, but a gross sum—no less than 18,000*l.* sterling. There was no such custom. He was upon no such visit. He was no ambassador. He was a member of a Committee of Circuit doing his revenue duty, if he had done it, or under pretence of doing his revenue duty, at that place; and he that could not accept a complimentary nazar—he that by his covenant was not to receive, upon any pretence whatsoever, above 400*l.*, receives this great sum of money. Your Lordships are now fairly to consider—I wish you would take it seriously to your conscience: and this is a business not to be hurried over in a mass, and [where you may] say,—"Here is a great man, who may have his little errors among his great services." No; you cannot huddle this, as a judicial body, into a mass—a heap. You must judge upon it bribe by bribe, act by act. Is this justifiable by his covenant? Is this justifiable by law? Is this justifiable by the circumstances under the principles of humanity? Is it a practice fit for an English Governor General to follow? I dwell the longer upon this because it is an avowed thing, so that the whole is an issue at law between us;—whether your Lordships will say that a Governor General, in such a case, ought to take such money. First, I wish this to be distinctly fixed in your Lordships' minds—which is distinctly fixed and shall never go out of ours—that this covenant never did allow him to take above 400*l.*, upon any pretence whatsoever.

His acceptance of 18,000*l.*

Importance of a deliberate decision upon the Charge.

Your Lordships observe, we contend that, if there was a custom, this covenant put an end to that custom. It was declared and intended so to do. The fact is, that, if it was a custom, it was a custom justifiable for an ambassador, or minister, or person on a necessary complimentary visit to a sovereign prince. I say, we deny positively that there is any such custom. Then we say, he never was any such minister. He never went on any such compliment. He was doing another act, of another kind and of another nature, and was accidentally at Moorshedabad upon that occasion.

Futility of the Defendant's plea.

* Letter of Mr. Hastings to Hussein Reza Khan, 15th August, 1777; printed in the "Minutes of the Evidence," p. 765.

16 JUNE 1794.

Object of Mr. Hastings' visit to the Nawab.

Do you call a man who is going to execute a commission, [more severe]* even than the most severe commission against bankrupts that ever was—to take away half a man's income, and to destroy a whole body of people dependent upon that income—do you call that a complimentary visit? Is that a thing for which a man is to get great and flourishing entertainments? No; the pretence is worse than the act. When a man is going to execute upon another such harsh cruelty, going to perform a service at which he himself says his mind must revolt, is that precisely the time that he is to take from that undone person a present; as if he was there upon a visit of compliment, going to do something for his benefit, to augment his revenues, to augment his territories, to make a valuable treaty with him of some kind or other? Is that a proper time to take from a minor such a sum of money? And there I leave it for your Lordships to consider upon the principle, the example and the effect, that must follow; for the poor Nawab is still at Moorshedabad, and there is at the mercy of any English gentleman who chooses to take 18,000*l.*, or any other given sum of money, from him at his pleasure.

Upon a question, in page 1269 of the printed Minutes:—

Presents returned by Gen. Clavering.

"The General"—meaning always, when they name a General, General Clavering, a man to whom none of these things could be imputed—"conceiving it to be the intention of the Legislature that the Governor General and members of the Council should receive no presents, either from the Indian powers or any persons whatever, he has strictly complied, since his arrival here, both with the spirit and the letter of the Act of Parliament, and has accordingly returned all the presents which have been made to him."

Here the court of Directors directly themselves declare that no such nazars, even of small compliments, should be received, as they would naturally lead to greater and further degree of corruption. I have done with this, leaving it with you, not for the sake of the gift or present, which has been sufficiently spoken to, but upon account of the principle that is laid down; by which, under the strongest and most impudent of all evasions, the whole purpose of the covenant can be completely set aside.

The next part that I shall mention, and which I shall resume [is one which] though I opened it a little last day, I was not able to go through sufficiently to do it justice; and yet I should be very sorry that it ever escaped your Lord-

* Revised copy.

ships' minds, because it opens a new principle of presents. The present Mr. Hastings took from the farmers, through Gunga Govind Sing, is a thing which he justifies, he says, from the inward intention of his own mind to apply it to the public service. We see how that inward intention in his own mind to apply it to the public service may justify any evil, but we go no further than that. We have seen how presents from the Nawab are justified. We see how this business—taking a sum of money for an allowance or entertainment, directly contrary to the covenant—how that is attempted to be justified. But there is another wholly new [instance of malversation]* that I will venture to desire your Lordships very seriously to cast your eyes upon; [to see] whether, in all the causes of peculation or malversation in office that ever have been tried before this high court, or any low court, or what you can get from the records of antiquity, you find anything like it in any degree. We have all, in our early education, read the Verrine orations. We read them not merely to instruct us, as they ought to do, in the principles of eloquence—to instruct us in the manners, customs and laws, of the ancient Romans, of which they are an abundant repository—but we read them for another motive, for which the great author published them, namely, that he should leave to the world and the latest posterity a monument, by which it should be shown what course a great public accuser in a great cause ought to follow, and, as connected with it, what course judges ought to pursue in such a cause.

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Receipts of presents by Mr. Hastings from the farmers.

The orations against Verres.

In these orations, you see almost every instance of rapacity and peculation which we charge upon Mr. Hastings. Undoubtedly, too many Roman and English governors have received corrupt gifts and bribes under various pretences, but there is one kind of disgrace belonging to this Government which I defy you to find in Verres and the whole Roman tribe of peculators, in a Governor General, Pro-Consul or Viceroy. I desire you to consider this thing as a class apart. It is an individual thing, but makes a class or tribe—a species by itself. It is like the phœnix, a tribe and species alone;—the business of Nobkissin. This is not money pretended to be received in lieu of entertainment. It is not money taken from a farmer-general, out of an idea that his profits will be greater than he gives to Government;

Mr. Hastings' transactions with Nobkissin.

* Revised copy.

16 June 1794. not from a great man as an act of his bounty. No; it is a sum of money taken from an individual, and proved before you by Mr. Larkins, his own book-keeper, to be money borrowed, for which he had engaged, when the instalments were paid, to give his bond; and that he had actually deposited his bond, as Mr. Larkins has proved to you. But Mr. Hastings, when he is called upon, withdraws his bond. He will not pay the money. He refused the application of the persons, both there and here; and he comes to your Lordships and says, "I borrowed this money. I intended my bond for it, as it is proved before you, but you must give me this money."

Fraudulent conduct of Mr. Hastings.

We have heard of governors being everything that is bad, but a governor putting himself in the situation of a common cheat, of a common swindler, never was, I believe, heard of since the creation of the world to this day; because this does not taste of the common oppression of power—this does not taste of the common abuses of office—but it no ways differs from one of those base swindling cases that come to be tried and heavily punished in the King's Bench every day. This is a plain cheat!

Insolence of his defence.

Now, my Lords, let us see how it is justified. To justify a cheat—to justify a fraud upon an individual—is reserved to our times. But, good God Almighty! such a justification! Oh, my Lords, consider into what a state Indian corruption has brought us in this country, when any person could be found to come to the bar of the House of Lords, and say,—"I did cheat; I did defraud; I did promise my bond; I withdrew it; but I will account with you, as another gang of robbers concerned with me. Though I robbed this man, I have been trustee to the gang." Mr. Hastings' defence, I will fairly say, in every part, is the most ignominious part of the whole proceeding. What does he do? He brings it to the Peerage of Great Britain, and desires them to concur with him in it, to be his accomplices in it. I will venture to say, a species of account that, in a night-cellar, among thieves and pickpockets, could never be attempted.

He says,—"I did take this money from this man. My own account proves it. He proved that I cheated him of it. Very well. But observe what I have done for the gang. Come forward Mr. Auriol, and prove what handsome budgerows I gave the Company. Were not they elegantly painted, beautifully gilt, charming and commodious? I made my use of them as long as I had occasion, and, though they are

little worse for wear, and would hardly suffer the least percentage deduction upon them, I gave them to the Company." Suppose, in the scene I describe, a person called to account: —"Why have you cheated so much?" "Oh; I did not put it in my pocket. I wore a suit of lace clothes when I was Jew bail for some of this Company. It will burn for more than I put in bail for. They are hardly the worse for wear, though I appeared two or three times in different characters as bail for you, on such an occasion. I set off [this] against this money which I swindled you of, and for which you are calling me to an account as a common swindler among you:"—for that is the very case we are in. Here is a coat little worse for wear. I give that to you, and set that off against the money I picked such an one's pocket of. Here is a watch I give you. I did steal this out of such a man's pocket, I admit; I took such a watch, but here it is. I wore it for such a time, as long as it was convenient; now I give the watch to the Company, and let them send it to a pawnbroker's for what it will bring. 16 JUNE 1794.

"Then I maintained *aides-de-camp*, and gave them house-rent." First, who made you a military man, to have such a legion of *aides-de-camp*? "But," says he, "I paid house-rent for them." That is, in other words,—"I paid, at night-cellars and houses in St. Giles's, sixpence a week for some of the gang." This is the way of going on through the whole; and then says he,—"I taught some of the gang some lessons. I founded a Mohammedan school." Oh, my Lords, consider what a shameful affair this is! Hear what a scene is opened, I think, of such iniquity, as the world never yet had to blush at!

His appointment of *aides-de-camp.*

"I founded a Mohammedan college in the year 1781." Mr. Hastings declared that he had borne the expense of the Mohammedan college, founded by a person whom he had brought there, called Muged-ud-din, in the September before, that is, September 1780. This Muged-ud-din was to finish men in all arts and sciences, by a sort of contract, in about six months. The purport of the school was, as Mr. Hastings himself tells you, for breeding theologians, for maulavis; which maulavis are to be judges, doctors of law, something like our masters in Chancery, to be the assessors of judges, to determine the law upon an occasion such as this. This was the school that he made. He gave 3,000*l.* a year. I am speaking of matters of public notoriety; it is in page 2197 of the printed Minutes. It was to be for the purpose of

His foundation of the Mohammedan College.

16 JUNE 1794. breeding judges, breeding magistrates, and breeding theologians. I bless God that Mr. Hastings, when he resolved to be pious and munificent, and to be a great founder, chose to be a Mohammedan founder rather than a Christian founder, and that he did not disgrace our religion, at least, by such a foundation.

His fraudulent accounts.

See how he charges the matter to the Company twice over. First, he makes them set aside 3,000*l.* a year of revenues for this service. He separates it completely from his. [How it was] applied in the interval no man living knows; but we know, at his departure, one of the last acts he did was, to desire it should be put into the hands of Mugd-ud-din. Here is the last visitation that happened; and your Lordships will see the use I intend to make of it. Lord Cornwallis examined it, in the year 1788, upon [certain] complaints. Your Lordships have heard what a sink of filth, misery, vermin and destruction, it was. Mr. Chapman, who was the visitor and the friend of Mr. Hastings, declares that he could not sit in it for a few minutes even. His words are:—

Offensive condition of the establishment.

"The wretched, squalid, figures that from every part run out upon me appeared to be more like anything else than students."

We find that he ordered Muged-ud-din should have 3,000*l.* a year assigned him, under his sole management, of the Company's estate.

Mr. Shore at the head of the revenue, and Lord Cornwallis at the head of the Board, as natural visitors of this foundation, heard an universal outcry of the whole city against it, as a sink of every kind of abuse; not only of filth and excrements which made it stink in the natural nostrils, but of worse filth and excrement which made it stink in the [moral]* nostrils of everybody:—

"The Board cannot but express their concern that an institution† . . .

This was in 1788; and, long before, it had been notorious that this college, which was to produce theologians, judges, and assessors of judges, for the support of justice in the country, was become, under Mr. Hastings' guardian and preceptor, on whom he thought proper to settle 3,000*l.* a year—a handsome foundation for a college—and to lay out

* Revised copy.
† The paper referred to is not in the printed Minutes of the Evidence.

5,000*l.* upon the building, without giving any account of it, of the Company's money, [insufferably offensive]. In short, Mr. Shore had received complaint after complaint of this horrid nuisance established in the country. 16 JUNE 1794.

Peculations of Muged-ud-din.

When Lord Cornwallis came to inquire into it, he found Muged-ud-din had sunk the revenue of it 1,000*l.* year. That which ought to have produced upwards of 3,000*l.*, produced but 2,000*l.* a year; and, in short, [it was] a scene of peculation in the masters and in all the scholars—instances of persons being abandoned to every kind of vicious and licentious courses, without a shadow or possibility for any [benefit]: for they inquired whether there was any good mixed with this;—no; it was all bad, from one end to the other. It must have been known to Mr. Hastings, for this inquiry was in the year 1788. It must have been known to Mr. Hastings when he put into this man's hands this 3,000*l.* a year. What do I mention this for? That you ought to be cautious when you see an account brought to you, and Mr. Hastings desiring your Lordships to allow him fraud, cheating and swindling, for his piety and for his good foundations; that is, to make amends for his own robbery and peculation by the breeding up judges and magistrates and divines. You find what sort of thing it is. Can you, therefore, vote a set-off for him against the money which he allows to be swindled from an individual, to be employed and to be suffered to be set off by his making a college for thieves, felons, pickpockets and housebreakers,—as you naturally suspect this to be?

But there is another more serious thing at this very moment:—and do not think that I lay too much weight upon it, because if I were, in truth, to [select]* a thing dishonourable to the British nation, it would be to have a Governor, who was concerned in such practices, justify them in such a way. Here is the razinama, or attestation, of Munny Begum, whom Mr. Hastings put in the seat of justice in this country, concerning this college, precisely at the time of this notorious account; precisely at the time of these iniquitous [proceedings]; precisely at the time in which Lord Cornwallis has represented it in this manner to the court of Directors! Your Lordships will see what attestations are in that country;—that they have made these people to attest things in diametrical contradiction to their own certain know-

* Revised copy.

16 June 1794. ledge. It is in page 2350 of your Minutes. These are pages that, unless we efface them by your justice, will stand strong against us some day or other. Now, relative to this very college:—

Testimonial of Munny Begum.

"He respected the learned and wise men, and, in order for the propagation of learning, he built a college and endowed it with a provision for the maintenance of the students; insomuch that thousands reaping the benefits thereof offer up their prayers for the prosperity of the King of England and for the success of the Company."

Here you see a seminary, just such as you would expect when you find it is justified upon the principle of swindling. Such is the account produced in Lord Cornwallis's letter to the Company declaring the thing to be notorious: they have charged it all to Mr. Hastings.

Falsity of the college accounts.

This is the miserable state of things which all the world knew, and which Lord Cornwallis tells you is perfectly notorious; and this is the thing which your Lordships are to set-off against this! Oh, God of heaven! let shame for one moment unveil its face; let indignation suppress its feelings; and considering this but as the situation in which we are supposing, keeping an account of a swindling transaction, let us see how that account is kept. Mr. Hastings has declared, and you will find it upon the Company's records, that this institution—which, by the way, cost the Company not less than 40,000*l.* in one way or other—Mr. Hastings does not pretend to have commenced—he has recorded it—before October in the year 1780. He brings it before the Board in April, 1781; that is, about six months after its foundation.

Now look at the account. Where is that swindling account which is given to us? I protest to God, so gross an affront never was offered to any people in the world, as that any account thus founded in swindling should be brought before you. He has supposed it to begin in the year 1779. He has overcharged it a whole year, and made it to begin then, when it did not begin till October, [1780], according to his own account. He makes it to commence in October, 1779. Then, Mr. Larkins may be inaccurate. Good God! where are we? Mr. Hastings, who was bred an accountant, who was bred in all sorts of trade and business, declares that he keeps no accounts. Then comes Mr. Larkins who keeps an account, but he keeps a false account. Indeed the whole accounts from India, from one end to the other, are nothing but a series of frauds while he was concerned in it; and

Mr. Larkins, keeping his private account just as he kept the public accounts, has swindled a whole year in this swindling transaction. 16 JUNE 1794.

Why do I state this to your Lordships?—because I wish you to be cautious, first, how you receive such accounts at all, the truth, the reality, of which you cannot penetrate in any regular way. The first person who comes to you, the accountant, is guilty, upon the face of it, of a gross fraud. It is no matter whether the account is true or false; it is an account which you are in no situation to control. I lay down this as a rule;—no man ought to receive an account—which is as serious a part of a judicial proceeding as can be—which he has no means to control, but must depend upon the sole word of the accountant.

Inability of the Court to check the accounts.

Having stated, therefore, the nature of the offence—which I have stated to be nothing less than a commonplace dog-trot fraud, such as we see amongst the meanest of mankind—you will be cautious how you admit to be set up against [his crimes]* these his pretended services, which you cannot estimate, the truth of which you cannot enter into, and which, upon the very face of them, carry marks of fraud as well as the thing does of abuse. This Muged-ud-din, who is to do all these wonders, Lord Cornwallis turned out, with every kind of scorn, and endeavoured to put the college upon some proper foundation, which Mr. Hastings had made a sink of abuse.

Reforms introduced by Lord Cornwallis.

This Mussefur Jung Mohammed Reza Khan, on whom Mr. Hastings had showered down so many blessings by acts he was concerned in, which he was bound some to do and others not to do, had been reduced from a state of 120,000*l.* a year to receive but one lac of rupees, or about 12,000*l.* a year,—God knows how paid. This man and this magistrate, who, you have heard, cannot execute the laws or prevent robberies, is made to finish the distress of the country by commending this very college; which I hope you will never keep out of your sight, because you never find any wicked, notorious, fraudulent and criminal, act, that you do not find the persons who must know it, and who suffer by it, to be the very persons who are attesting in its favour. From which I leave your Lordships to draw your own conclusion.

Testimonial of Mohammed Reza Khan.

Now let me finish all that I have to say upon this business; always connecting what I say with the attestations

* Revised copy.

16 JUNE 1794. which Mr. Hastings has produced, that you may see that you are more offended, and that justice is more insulted, in the defence than in the acts; a thing which I have undertaken to prove from the beginning. And I do constantly insist upon it, that it is a most gross violation to make this unhappy people make these attestations, who know the direct contrary of every word which they say; who must know it, for Lord Cornwallis tells you that was notorious which I tell you is notorious, and which, if you think fit to inquire into it, you will find to be notorious. These persons have cut in two the parts which they have produced to you; which, if anything could aggravate these proceedings, would aggravate them highly. They give everything which appears to be a little plausible in this, and sink all the rest, though it was in their hands. I have nothing more to say about that kind of attestation.. I come now to the effect of the whole mass of all these oppressions. I have stated in what manner the revenue was reduced; in what manner the servants of the Company were reduced to the worst of all bad states, and fittest to prepare people for subservience. They were reduced to a state which made it impossible for them to execute their duty. Permit me to read the evidence produced by Lord Cornwallis—called by Mr. Hastings—of the effect of it on the state of that country.

The evidence of Lord Cornwallis, page 2721 :—

Evidence of Lord Cornwallis upon the condition of the Company's territories.

"Whether your Lordship recollects an account that you have given to the court of Directors, in your letter of the 2d of August, 1789, concerning the state of those provinces?"—"I really could not venture to be particular as to any letter I may have written so long since, as I have brought no copies of my letters with me from India; having left them at Bengal when I went to the coast." "Whether your Lordship recollects, in any letter that you wrote about the 2d of August, 1789, paragraph 18, any expressions to this effect; namely, 'I am sorry to be obliged to say that agriculture and internal commerce have, for many years, been gradually declining, and that at present, excepting the class of shroffs and banyans, who reside almost entirely in great towns, the inhabitants of these provinces were advancing hastily to a general state of poverty and wretchedness;'—whether your Lordship recollects that you have written a letter to that effect?"—"I cannot take upon me to recollect the words of a letter that I have written five years ago, but I conclude I must have written to that effect." "Whether your Lordship recollects that, in the immediately following paragraph—the 19th—you wrote to this effect,—'In this description,' namely, the foregone description, 'I must even include almost every zemindar in the Company's territories; which, though it may have been partly occasioned by their own indolence and extravagance, I am afraid must also be in a great measure attributed to the effects of our former system of management.' Paragraph 20 :—'The settlement in conformity to your orders will only

be made for ten years certain, with the notification of its being your intention to declare it a perpetual and unalterable assessment of these provinces, if the amount and the principles upon which it has been made should meet with your approbation;'—whether your Lordship recollects to have written something to the effect of these two last paragraphs, as well as of the first?"—"I do recollect that I did write it; but in that letter I alluded to the the former system of annual assessments." "Whether your Lordship recollects that you wrote, on or about the 18th of September, 1789, in one of your minutes, thus—'I may safely assert that one third of the Company's territory in Indostan is now a jungle, inhabited only by wild beasts; will a ten years' lease induce any proprietor to clear away that jungle, and encourage the ryot to come and cultivate his lands, when at the end of that lease he must either submit to be taxed *ad libitum* for the newly cultivated lands, or lose all hopes of deriving any benefit from his labour, for which perhaps by that time he will hardly be repaid?'—whether your Lordship recollects a minute to that effect?"—"I perfectly recollect to have written that minute." "Now, with respect to a letter, dated November the 3d, 1788, paragraph 38, containing the following sentiments:—'I shall therefore only remark in general that, from frequent changes of systems, or other reasons, much is wanting to establish good order and regulation in the internal business of the country: and that, from various causes, by far the greatest part of the zemindars, and other landholders and renters, are fallen into a state much below that of wealth and affluence. This country, however, when the fertility of its soil and the industry and ingenuity of its numerous inhabitants are taken into consideration, must unquestionably be admitted to be one of the finest in the world; and, with the uniform attention of Government to moderation in exaction, and to a due administration of justice, may long prove a source of great riches both to the Company and to Britain.' Paragraph 39:—'I am persuaded that by a train of judicious measures the land revenue of these provinces is capable, in time, of being increased, but consistent with the principles of humanity—and even those of your own interest—it is only by adopting measures for the gradual cultivation and improvement of the waste lands, and by a gentle and cautious plan for the resumption of lands that have been fraudulently alienated, that it ought ever to be attempted to be accomplished. Men of speculative and sanguine dispositions, and others, either from the ignorance of the subject or with views of recommending themselves to your favour, may confidently hold forth specious grounds to encourage you to hope that a great and immediate accession to that branch of your revenue might be practicable. My public duty obliges me to caution you, in the most serious manner, against listening to propositions which recommend this attempt, because I am clearly convinced that, if carried into execution, they would be attended with the most baneful consequences.' Paragraph 40:—'Desperate adventurers, without fortune or character, would undoubtedly be found, as has already been too often experienced, to rent the different districts of the country at the highest rates that could be put upon them; but the delusion would be of a short duration, and the impolicy and inhumanity of the plan would, when perhaps too late for effectual remedy, become apparent by the complaints of the people and the disappointments at the treasury in the payments of the revenue, and would probably terminate in the ruin and depopulation of the unfortunate country;'—whether your Lordship recollects to have written anything to that effect, about that time?"—"I perfectly recollect having written the extracts that have been read."

16 June 1794.

Future policy recommended by him.

16 JUNE 1794.

My Lords, Lord Cornwallis was called. We gave ten days for calling him. We do not regret that we did, when he has borne, at Mr. Hastings' desire, such a testimony to the effects of his government. We find him represent that country as the most fertile upon earth—as in truth it is. The zamindars, the great lords of the country, are represented by him as not able to give even a common decent education to their children, notwithstanding these pretended colleges are founded. We find him calling for mercy on them; and one of the cruel afflictions is the country being taken out of the proper native hands and let to the farmers, namely, the banyas of Calcutta.

Contrast of the testimonies with the evidence.

These are the things that ought to go to your Lordships' hearts. You see a country desolated. You see a third of it a jungle for wild beasts. You see the other parts oppressed by persons in the form and shape of men, but with all the character and disposition of wild beasts. The state of the country is brought before you by the most unexceptionable evidence, let it be brought by whom they will; but, being brought by Mr. Hastings, it is of double and treble force. And yet these people, at the very time when Lord Cornwallis is writing this state of the country, at the very time when he is calling for pity upon their condition, declaring their fallen state and wasted country, families destroyed, the first people unable to give a decent education to their children, and that there are no [monies] but in the hands of these banyas, who have been employed by Mr. Hastings under Gunga Govind Sing, under the Committee of Circuit—money is found in no hands but in theirs—at this very precise time [are these people brought forward to bear testimony to the benign and auspicious government of Mr. Hastings] !* I shall beg leave to state to you what Lord Cornwallis has declared to be the state of the country, —an act, I know, by the way, which Mr. Hastings has stated may possibly be considered by your Lordships as nothing. But you are not for his sake to prostitute—as you would then do—your legislative as well as your judicial capacity. You have declared such was the state of the country. You did wisely, in making this act, to take the authority of the House of Commons, the most diligent inquisitors into every part of the affairs of all this empire. You did right to do it. When you did it, it was as much

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* Revised copy.

your Act of Parliament—as much your authority, as ours. 16 JUNE 1794.
See what you have done by this Act; and then see whether, at the instigation of this man, you are to be got to fly in the very face of the laws of your country. It is the Act of the 24th George III., cap. 25, sec. 39. Act of the 24th Geo. III., cap. 25.

My Lords, here is an Act of Parliament; here is a regulation in consequence of a declaration of the grievance made, of the inquiry directed, and the redress prescribed. This Act of Parliament declares these oppressions. Whose oppressions were they? The oppressions that they suffered by being let to farmers and other oppressors of the country. Who was the person that so sold them? Warren Hastings. What were these letters of my Lord Cornwallis? They were answers to the court of Directors, and a return under an Act of Parliament of the state of the country, ordered by the Act of Parliament to be made. Then you see the Act of Parliament justified. It states the grievance; it states the cause of the grievance; it states the sufferings of the people; it orders an inquiry; and Lord Cornwallis, in consequence of that inquiry, transmits to the court of Directors, this very information. He gives you this identical state of the country; so that it is consolidated, mixed and embodied, in an Act of Parliament itself, which no power on earth, I trust, but the power that made it, can shake. I trust that neither we, the Commons, nor you, the Lords, nor His Majesty, the sovereign of this country, can shake one word of an Act of Parliament—can take away from the truth of its declarations, or from the authority of persons, who are men of honour, and who, under that Act of Parliament, made this inquiry. It cannot be done by your Lordships. It cannot be done by us. It cannot be done by the King. It must be undone by the laws only. You must repeal this Act before you can approve of any of these transactions, and you must declare the Legislature a liar, in order to acquit Mr. Hastings.

But Mr. Hastings has evidence against an Act of Parliament. Here is the account Lord Cornwallis has given. Here is your Act of Parliament. Here the court of Directors order an inquiry under the Act. Here is Lord Cornwallis's return to it;—and you hear what the miserable wretches are themselves made to say to invalidate the Act of Parliament, to invalidate the authority of the court of Directors, to invalidate the evidence of an official return of Lord Cornwallis under the Act:—do hear what these

16 JUNE 1794. miserable creatures describe as an elysium; speaking with raptures of their satisfaction with regard to Mr. Hastings —

Testimonials adduced by Mr. Hastings.

"All we, zemindars, choudries and talookdars, of the district of Akbarnagur, commonly called Raje Mhal, in the kingdom of Bengal, have heard that the gentlemen in England are displeased with Mr. Hastings, on suspicion that he oppressed us, inhabitants of this place,—took our money by deceit and force, and ruined the country. Therefore we, upon the strength of our religion and religious tenets, which we hold as a duty upon us, and in order to act conformable to the decrees of God in delivering evidence, relate the praiseworthy actions, full of prudence and rectitude, friendship and politeness, of Mr. Hastings, possessed of great abilities and understanding; and, by representing facts, remove the doubts that have possessed the minds of the gentlemen in England —that Mr. Hastings distributed protection and security to religion, and kindness and peace to all; he is free from the charge of embezzlement and fraud; and that his heart is void of covetousness and avidity. During the period of his government no one experienced from him other than protection and justice, never having felt hardships from him, nor did the poor ever know the weight of an oppressive hand from him. Our characters and reputations have always been guarded in quiet from attack by the vigilance of his power aud foresight, and preserved by the terror of his justice. He never omitted the smallest instance of kindness and goodness towards us and those entitled to it, but always applied, by soothings and mildness, the salve of comfort to the wounds of affliction, not allowing a single person to be overwhelmed by despair. He displayed his friendship and kindness to all. He destroyed the power of the enemies and wicked men by the strength of his terror. He tied the hands of tyrants and oppressors by his justice; and by this conduct he secured happiness and joy to us. He re-established the foundation of justice; and we at all times during his government lived in comfort and passed our days in peace. We are, many of us, satisfied and pleased with him. As Mr. Hastings was perfectly well acquainted with the manners and customs of these countries, he was always desirous of performing that which would tend to the preservation of our religion and of the duties of our sects, and guard the religious customs of each from the effects of misfortune and accidents. In every sense, he treated us with attention and respect. We have represented, without deceit, what we have ourselves seen, and the facts that happened from him."

This, my Lords, is in page 2374 of the printed Minutes.

Suspicious uniformity of the style of the attestations.

My Lords, we spare you the reading of a great number of these attestations. They are all written in the same style. It is very odd, that, as they were totally voluntary, as they are represented as crowding to make these testimonials, it is very odd that there should be such an unison in the heart to produce a language that is so uniform as not to vary so much as in a single tittle; that every part, every province, every district, every religion, all unite in the same words and in the same phrases; so that I must fairly say it is

a kind of miraculous concurrence—a miraculous gratitude! Mr. Hastings says that gratitude is lost in this part of the world. But it revives there; it blooms and flourishes in a way not to be described. In proportion as you hear of the miseries and distresses of these very people, in [that] proportion do they express their comfort and satisfaction, and that they never knew what a grievance was of any sort. Lord Cornwallis finds them aggrieved. The court of Directors find them aggrieved. The Parliament of Great Britain finds them aggrieved; and the Court here finds them aggrieved. But they never found themselves aggrieved. The turning them out of doors, and giving all their lands to farmers for five years, to riot in what they had, and afterwards to be excused in their balance—all their lands being in the hands of banyas—fills them with rapture! They are the only people, I believe, that never complain of their government in any instance whatever. It must be something more than the government of angels; for I verily believe, if God was to send out of the choir of the heavenly angels one to govern the earth, such is the nature of man, that many persons would be found to be discontented with it. But they have no complaint. They feel no affliction—no sorrow. He has realised more than the golden age. And here you have a sort of people before you, representing—I am ashamed for human nature, I am ashamed for our Government, I am ashamed for a court of justice, that these things are before us; but here they are, and we must observe upon them.

16 June 1794.

Indian gratitude.

My Lords, we have done with this part. We have made out our case. There now remains for us to make observations upon what Mr. Hastings has thought proper to put forward as against this case. Does he meet this with anything but those general attestations?—upon which I must first remark that there is not one single matter of fact touched upon. Your Lordships will observe, and you may hunt them out through the whole body of your Minutes, that you do not find a single fact mentioned in them. But there is an abundance of panegyric; and, if we were doing nothing but making satires, as the newspapers charge [us with doing]* against Mr. Hastings, panegyric is a good answer to them.

Mr. Hastings sets up pleas of merit upon this occasion; and, undoubtedly, no plea of merit can extinguish, as your

Pleas of merit to be urged only in mitigation of punishment.

* Revised copy.

16 JUNE 1794. Lordships know very well, a direct charge. Merit cannot extinguish crime. For instance, Lord Howe, to whom this country owes so much, as it owes this day, for his great and glorious victory—which makes our hearts glad, and, I hope, will make this country secure—yet, if Lord Howe was charged with stealing the King's stores, for instance, and applying them in a manner utterly shameful and unfit for his situation to do, if he was accused of taking advantage of his station to oppress any of the captains of his ships, if he was stated to go into a port of the allies of his country and to rob them, and to rob their women, to break into their recesses, and commit all these sort of things, why the glorious victory of Lord Howe could not change the nature, the quality, of those acts.

If some of our ministers—My Lord Cornwallis is gone to the Emperor of Russia, my Lord Malmesbury is gone to the King of Prussia; we hope and trust their embassies will succeed; we hope and trust this country will receive great benefit from them; we hope all these things; but if Lord Malmesbury, from any money that was to be paid to the King of Prussia, was to put 50,000*l.* in his pocket, I believe his making a good and advantageous treaty with the King of Prussia would never be thought a good defence for him. We admit that, if a man has done great and eminent services, though they cannot be a defence against crimes and cannot conceal them, yet when sentence comes to be passed upon that man, you will consider, first, whether they were common lapses of human frailty, and you must consider the nature, weight and validity, of the grievance. As I was stating the case of Lord Malmesbury—your Lordships may easily perceive that is stating an impossible case: I only put it in the case of a man whom we all know and revere, and upon whom, to use Mr. Hastings' expression upon the Munny Begum much more properly, the breath of calumny has not breathed:—I say, he would not be justified, though your Lordships might think some pity due to it.

Let us then consider what are the merits which Mr. Hastings has set up against the justice of his country, and against his proved delinquencies. I confess that, if a man has done great services, it may be some alleviation; but then they ought to be used as such,—with modesty, with humility, with confession of the fact; and not with a proud and insolent defiance, stating these services as reasons why he stands justified in the eye of mankind for committing unexampled

and enormous crimes. Indeed humility, suppliant guilt, makes some impression upon our bosoms, in such a manner that, when we see it before us, we always remember that we are men; and nothing but a proud defiance of law and justice could make us forget it for one moment. I believe the Commons of Great Britain—perhaps the persons that speak to you—know very well how to allow for the faults and frailties of mankind, and that they consider them largely, liberally and equitably; but we have not stated one crime but what is full of malice. 16 JUNE 1794.

Now, from what is stated for the prisoner, you would imagine some great, known, acknowledged, services. My Lords, the things that are stated are, every one of them, so many things, deliberately, upon the fullest inquiry, by the greatest diligence and sagacity, by the greatest and most penetrating research, reprobated in the strongest manner as the crimes of Mr. Hastings. And yet these crimes, in defiance of the House of Commons, in defiance of its most solemn resolutions, in defiance of the Acts of Parliament founded on these most solemn resolutions, does this man venture to bring before you as merits, to extenuate the crimes with which we charge him! Criminal character of Mr. Hastings' alleged services.

He finds in our proceedings a whole mass of matter upon which he is criminated, in every part of the journals; and when he finds that we have selected—as we were bound to select—only certain things of certain descriptions to charge him with, he takes all the rest, that we have laid aside and do not bring here as charges, to convert them by a strange metamorphosis into merits, to make your Lordships acquit him of these charges!

My Lords, we must beg, for the House of Commons—we must beg, for the honour of a co-ordinate branch of the Legislature—that your Lordships, whenever you take what we condemn as crimes to be merits, will at least give us an opportunity of being heard upon the matter; that you will not take an oblique, ungenerous, unhandsome, mode to condemn the House of Commons, by letting the Defendant, when he is attempting a proof of something else, come obliquely to censure the House of Commons and the Legislature itself.

Mr. Hastings has brought up to you a variety of merits; and every one of these merits, without the exception of one of them, is either directly censured by the House of Commons, and censured as a ground for legislative provision, or

16 JUNE 1794. they remain upon the records of the House of Commons, with the vouchers for them as proofs. Though we have not yet actually resolved upon every one of them, we have resolved, as I think, upon no less than forty-five parts of his conduct upon this occasion. [These resolutions were moved]* in the year 1782. [They were moved] by a person whom this country is under many obligations to, and whom we must speak of with honour, whenever we consider great situations in this country, and great talents to support them, and long services in the House of Commons:—I mean Mr. Dundas, then Lord Advocate of Scotland, and now one of the principal Secretaries of State, and at the head—and worthily and deservedly at the head—of the India establishment. He moved forty-five resolutions; the major part of them directly against these very acts Mr. Hastings has pleaded as his merits, considered as delinquencies and crimes.

Mr. Dundas's resolutions.

Right of the Commons to be heard on the alleged merits.

All that the House of Commons implore of your Lordships is, that you will not take these, which we call crimes, as merits, without hearing the House of Commons upon it. I am sure you are too noble and too generous to do it. The first thing Mr. Hastings brings forward here is, that, whereas the Company were obliged to pay a certain tribute to the Mogul, in consequence of a [condition] inserted in the grant by which the Moguls give to us the legal title by which we hold the provinces of Bengal, Bahar and Orissa, he did stop that stipend or tribute, such as it was;—an acknowledgment that, though bound by treaty, though bound by the very sanad by which he held the very office he was exercising, recognised by the Company and recognised by the nation, yet he broke it, and refused to pay this.

Abolition of the tribute due to the Mogul.

Where are we? Is this merit? Good God Almighty! the greatest blockhead, the most ignorant, miserable, wretch, a person without either virtue or talents, has nothing to do but to order somebody to strike a pen through such an account, and then he makes a merit to you! "Oh, I have saved you all this money. You were bound to pay, but by a breach of your faith, by a single dash of my pen, I have put an end to this. I gave you 250,000*l.*; will not you reward a person who did you such a great and important service?" But the House of Commons will not allow that this was a great and important service,—but the contrary.

* Revised copy.

Here is our Resolution:— 16 JUNE 1794.

Its condemnation by the Commons.

"Resolution the 7th.—That the conduct of the Company and their servants in India to the King,"—meaning the Mogul King,—"and Nudjiff Cawn, with respect to the tribute payable to the one, and the stipend to the other, and with respect to the transfer of the provinces of Corah and Illahabad to the Vizier, was contrary to policy and good faith; and that such wise and practicable measures should be adopted in future as may tend to redeem the national honour, and recover the confidence and attachment of the princes of India."

This thing, which we have fulminated the thunder of our resolutions against, as a heavy crime—as a crime that dishonoured the nation, and which measures ought to be taken to redress, this man has the insolence to bring before your Lordships as a set-off against the crimes we charge him with! This outrageous defiance of the House of Commons, this outrageous defiance of all the laws of his country, I hope your Lordships will not countenance. Let it pass for nothing; let it not aggravate, as I am sure it does heavily, his crimes; but let not this, which we have declared to be injurious to the public faith, and which he himself does not deny to be a breach of the public faith,—let not that be set against other breaches of the public faith with which we charge him; nor justify [one class of]* public crimes by proving that he has committed other crimes.

This is what he states to you: and he makes up a sum, much in the same manner as he makes up the account of Nobkissin, of 260,000*l.* a year saved to the Company by this. But it shall not go so neither. There is no account which he has ever brought forth that does not carry upon it, not only ill faith and national dishonour in that way, but carries with it the direct proofs of corrupt practice in himself. When Mr. Hastings values himself upon this shocking, horrible and outrageous, breach of faith, which requires nothing but a base and illiberal mind to do, and requires neither talents, courage nor skill, except that courage that defies all consequences—that defies shame—that defies judgment—that defies the opinions of mankind and his country; no other courage than that, nor other talents than I have described, namely, to strike a pen over it;—[you will at least expect to see a clear and distinct account of what was gained by it].*

In the year 1775, at a period when Mr. Hastings was

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* Revised copy.

16 June 1794.

Detection of fraud in Mr. Hastings' revenue accounts.

under an eclipse, when honour and virtue, in the character of General Clavering, Colonel Monson and Mr. Francis, for a while sat—and for a very short period—at the Council board —in that time, Mr. Hastings' conduct upon this occasion was called into question, and they began to call for an account of the revenues of the country, what was received and what was paid. And they found that, in the account, the Mogul's stipend, or his tribute, was continued as paid up to October, 1774. This appeared fair upon the face of it. They took it for granted, as your Lordships would take it for granted, at the first view, that in reality it was paid. The books were balanced. You find a debtor; you find a creditor. The Mogul is credited for the receipt of 260,000*l.* in that year, that is, twenty-six lacs; and you find he sets off against it as regular a posted account as possible.

Examination of Mr. Crofts.

While they were on this, a Mr. Crofts, of whom your Lordships have heard very often, comes forward early in the transaction, and he declares that he, being Accountant General—much such an Accountant General as you have seen—that he, being Accountant General, finds there a little error in this. And what was the error? That he had given the Mogul a credit for one year more than he had received, namely, a small error of a payment to him of 260,000*l.*! This appeared strange. "Why," says he, "I never discovered it; nor was it ever intimated to me that it had been stopped from October, 1773, till the other day, when I had it intimated to me that I ought not to have made an entry of these payments, [they] having been stopped; but they agree ever since October, 1773." These are his expressions. It is in the Bengal Appendix, printed by the orders of the court of Directors, extracted from the records. When he is asked a very natural question,—"Who told you of your mistake?—who told you Mr. Hastings had ordered it to be expunged from October, and yet had not given you an idea that it had not been paid to that time?"—what is the answer? It is an answer worthy of Mr. Middleton—an answer worthy of Mr. Larkins—an answer worthy of all the banyas you have seen here:—"Oh! I have forgotten." "Had you heard of so trifling an error as this sum for a whole year?" "Oh! really I have forgotten." I could get nothing from him but that he had forgotten who told him that circumstance. Your Lordships will ask, what became of it? We find that, in the course of that year, in the account of the arrears due to the

His evasive replies.

King, annexed to your Minutes, he says that he had never received any intimation, till the other day, of the resolution of the late Board to withhold the tribute, from October, 1773. It is asked from whom he received this very late communication. He replies that he does not really recollect. The date of this letter is the 21st of March, 1775. On the 25th of February, he writes that he had never received an information, till the other day, of the resolution of the late Board—that is, Mr. Hastings' Board—to withhold the tribute, from this October, 1773; and, being asked from whom he received this very late communication,—"I really do not recollect." Oh! my Lords, what resources there are in oblivion! What resources there are in bad memory! No genius has ever done so much for mankind as certain defects. It was said by one of the ancient philosophers, to a man who proposed to teach people memory, —"I wish you could teach me oblivion. I wish you could teach me to forget." These people had not learned memory, but they had learned the art of forgetting. Here is a kind of labyrinth, where fraud runs into fraud. There is credit given to the Wazir for eight lacs paid to the Mogul, which he desires to draw upon the Mogul's tribute, for the support of an army which he himself had stipulated to bear the whole expenses of. There are eight lacs accounted for fraudulently, upon the face of the thing; and, when he comes to the rest, eighteen lacs more, there is no account of it at all; and consequently Mr. Hastings pocketed that. While he was pretending to save you by one fraud, he committed another fraud for himself: and this is the method in which one peculation governs another in the economy of fraud. Mr. Hastings says—if you want a key to it—I rigidly put an end to the Mogul's tribute, and Mr. Hastings put the money into his own pocket.

16 JUNE 1794.

Enormity of Mr. Hastings' peculations.

This is what I think myself bound to tell your Lordships upon this occasion. Not one word has been produced by the Counsel to support these allegations; but, knowing that your Lordships, high as you are, and being the best of men as I trust you are, yet still are men, and knowing that bold assertions and confident declarations prevail with men, how do we attack them? Not by things of the like nature. We attack them by showing you that the House of Commons has disapproved of them. We show you the grounds upon which the House of Commons has disapproved of them.

16 JUNE 1794. We send you to the records of the Company, if you want to pursue this matter further, to enlighten your own minds upon the subject. Therefore do not think that we do not know how ridiculous it is, for any person to dare talk of these things without producing a single voucher for them. We know it. But we are ready to take upon us the negative, and should be ashamed to assert anything that we are not able directly to prove by an immediate reference; though we are not bound to do it, for we could efface this by a single stroke, by saying, there is no evidence of it. But we show you that the things he has set up as merits are atrocious crimes, and not one of them that does not, in the very nature of it, carry evidence of low corruption, as well as breach of public faith, in Mr. Hastings.

Disapproval of the Commons of Mr. Hastings' conduct.

The next thing he takes credit for is this. The Mogul had by stipulation a royal domain [insured to] him, consisting of two provinces, Corah and Allahabad. Mr. Hastings was not satisfied with taking this tribute, and taking it for ever, but, under weak pretences, never proved in any sense, such as the Mogul was going to Mahratta—no reason why he should not go there, as well as Nujif Khan, or any other prince: we were not at war with the Mahrattas at that time;—well, he takes from him his domain, [almost the last wreck of empire left]* to the descendant of Tamerlane, to whose voluntary grants we owe that we have put a foot in Bengal. And surely we ought, at least, to have kept our faith, and left that retreat for this unfortunate prince. The House of Commons was of that opinion, and consequently they resolved:—

Their condemnation of the transfer of Corah and Allahabad to the Wazir.

"That the transfer of Corah and Allahabad to the Vizier was contrary to policy and good faith."

This is what the House of Commons think of this business which is to be considered as merit.

These provinces are rated at twenty-two lacs or thereabouts, that is, 220,000*l.* a year. I believe they were improvable to a good deal more. But what does Mr. Hastings do? Instead of taking them for the Company, instead of reserving them for the Mogul, till we should like the course he was taking better, or turning them to the Company's advantage, he sells them to the Nawab of Oude, who he knew had the art, above all men, of destroying the country

* Revised copy.

he was not to keep, or what he might fear he was not to keep. And what do you think he sold them for? He sold them at a little more than two years' purchase! Will any man believe that Mr. Hastings, when he sold these provinces to the Wazir for these two years' purchase—and there was no man living that would not have given ten years' purchase for them—did not put the difference between the real and pretended value into his own pocket and that of his associates?

16 JUNE 1794.

Disgraceful terms of the sale.

We charge, therefore, first, that which he assumes merit for as ill faith; next, that that ill faith was purchased of him. And, therefore, as he neither kept the pledge for the Mogul or for the Company, nor sold it for an adequate value, we charge him with corruption in that. And this is one of his merits, stated with great pomp by his Counsel!

Another of his merits was a pension the Company was obliged to pay to Nujif Khan, that was stopped. That was but a small thing among the rest. But there is another, upon which he values himself exceedingly; which is, the sale of the Rohilla nation to the same Wazir, their cruel and bitter enemy, a good manager of his own revenues, but the cruelest tyrant that ever existed to all persons—excepting Mr. Hastings always—to whom he had taken any degree of animosity, public, private or political. He sold him this whole nation, whose country was cultivated like a garden, and which is since a desert, for 400,000*l.* He sent a brigade of our troops to extirpate these people, who were the bravest, the most honourable and generous, nation upon earth, namely, the Rohillas. They were cruelly turned [out], and left to rot, and publish the merciless, scandalous, behaviour of Great Britain from one end of India to the other. I believe there is not an ingenuous mind upon the whole globe that has ever heard of it—I believe there is no man possessing the least pretension to honour, justice, humanity and good policy, that did not reprobate this.

Stoppage of the pension of Nujif Khan.

Sale of the Rohilla nation to the Wazir.

The Court of Directors, when they heard of it, reprobated it in the strongest manner. The court of Proprietors of the India Company reprobated it in the strongest manner. The House of Commons, after the most diligent research, and a resolution moved by Mr. Dundas, reprobated it in the strongest manner. This is our judgment on it, and Mr. Hastings brings it forward as a merit to your Lordships. But I can prove, upon every piece of this bad merit, that

Reprobation of the sale by the Company and the Commons.

16 JUNE 1794.

Corrupt character of the transaction.

there is a most horrid and nefarious, secret, corruption lurking in it. I am only to tell your Lordships that Sir Robert Barker was offered by this Wazir, for about one half of this country, namely, the country of the Rohillas,—he was offered a sum of fifty lacs of rupees, that is, 500,000*l.* for the half of it. Mr. Hastings was informed of this by Sir Robert Barker, in his letter of the 24th of March, 1773. Mr. Hastings took forty lacs of rupees for the whole, when he might have had fifty lacs for the half. Judge, then, what became of the difference. Nothing on earth can hide from mankind why Mr. Hastings made this wicked, corrupt, desperate, bargain for the extermination of a brave and generous people; why he took 400,000*l.* for the whole of that for half of which he was offered, and knew he might have had, 500,000*l.*

Your Lordships observe, all these have not one single syllable of evidence to support them; but there has been long and laborious detail and discussion both by Mr. Hastings himself and by his Counsel. Now we answer them for that reason. But we answer them by a direct reference to records and papers, by which your Lordships shall judge of them as set-offs and merits; and that is the light in which they look at them just at present. I believe your Lordships will hardly receive these as merits to set off guilt, because, in every one, there is a guilt in the act, and there are presumptions, not to be refuted, that he had taken money for every one of them to himself.

The Mahratta peace.

The next is the Mahratta [peace]. He produces to you the distresses of the Company, to justify the unhandsome and improper means that he took of getting this. He says—and here we display, here we spread our sails, here we catch every gale—he says,—"I found all India confederate against you, and I found the Mahrattas, I found the whole [country], through all the hundred states, fulminating against you. I found them combined with the Nizam. I found them combined with Hyder Ali. I stemmed all that torrent, nevertheless. I so endured — fortitude is my character—I bore all this, till I landed your affairs safe on shore; and now receive me as the saviour of India."

My Lords, we have heard all that; but we never forget that the House of Commons examined into the whole of this, and that there was not a single act that is put there which we did not reprobate. The House of Commons, in

these very resolutions, have determined that Mr. Hastings, the author of these proceedings, took advantage of an ambiguous letter of the court of Directors, to break and violate the most solemn, the most advantageous and most useful, treaty that ever was in India; that he produced this strange and unnatural junction, which he said he found, as it were, and had the merit of combating. It really is a dreadful thing; and I must first protest against [your receiving such evidence]* at all. If I do not enter much into it, it is because of the indecency and impropriety of your receiving that as merit which the Commons have condemned, in every part of it. Your Lordships have received obliquely the evidence upon that business; and, when we came and desired your inquiry upon that, your Lordships, for wise and just reasons I have no doubt, refused it to us: and now we only desire this, that your Lordships will not receive this as merit, till the House of Commons, who has condemned it in all its parts, is heard upon such business. They have condemned it in these forty-five resolutions.

16 June 1794.

—

Mr. Hastings' breach of the treaty with the Mahrattas.

Condemnation of his proceedings in the "forty-five resolutions."

The first thing I shall endeavour, therefore, to show your Lordships is this,—that, by his ill faith, he was the author of the whole. The Government of Bombay had offended the Mahratta States by a most violent and scandalous aggression. They made a treaty of peace afterwards, the most honourable and advantageous. Colonel Upton made the treaty called the treaty of Poorunder; and Mr. Hastings broke that treaty, upon his declared principle that you are to look in war for resources. India was at that time in peace. Hyder Ali did not dare to attack us. Why? Because he was afraid that his natural enemies the Mahrattas would fall upon him. The Nizam could not attack us, because he was afraid of the Mahrattas. The Mahratta State itself was divided into those discordant branches which it was impossible almost to unite again. That commonwealth, which was the terror of India, was broken; and there was not one power in India that did not look to Great Britain for holding the balance and preserving justice to them all. At that time, Mr. Hastings deliberately broke the treaty of Poorunder. He set up a treaty called [the treaty of Salby]. Why, before he had been abandoned by the Mahratta State, by attacking and breaking faith with all the powers, one after another, he produced that very

Disastrous consequences of the breach of the treaty of Poorunder.

* Revised copy.

16 JUNE 1794. union which one could hardly think that all the incapacity and all the ill faith could ever have produced. Mr. Hastings himself produced upon that occasion—he entered into—that war. Oh! what a disappointment was produced by himself in evidence, about the ill faith and the cause of it! He has produced it as a declaration of one of their best allies concerning that condition. He has produced you himself a witness, namely, a letter from the [Minister of the] Raja of Berar charging Mr. Hastings—which he has never observed upon or denied—as being himself the cause of that very junction of all the powers of India against us.

Letter from [Dewager Pundit to] Beneram Pundit: page 2793:—

Letter of the Minister of the Rajah of Berar.

"As the friendship of the English is, at all events, the first and most necessary consideration, I will, therefore, exert myself in establishing peace; for the power of making peace with all is the best object. To this all other measures are subservient, and will certainly be done by them, the English. You write, that after having laid the foundation of peace with the Pundit Purdhaun, it is requisite that some troops should be sent with General Goddard against Hyder Naig, and take possession of his country, when all those engagements and proposals may be assented to. My reason is confounded in discussing this suggestion, at a time when Hyder Naig is in every respect in alliance with the Peishwa, and has assisted with his soul and life to repel the English. For us to unite our troops with those of the enemy and extirpate him, would not this fix the stamp of infamy upon us for ever? Would any prince, for generations to come, ever after assist or unite with the Peishwa? Be yourself the judge, and say, whether such a conduct would become a prince or not. Why, then, do you mention it? why do you write it?

His account of the Indian confederation.

"The case is as follows. At first there was the utmost enmity between Hyder Naig and the Pundit Purdhaun, and there was the fullest intention of sending troops into Hyder Naig's country, and after the conclusion of the war with Bombay, and the capture of Ragonaut Row, it was firmly resolved to send troops into that quarter; and a reliance was placed in the treaty which was entered into by the gentlemen of Bombay before the war. But when Ragonaut again went to them, and General Goddard was ready to commence hostilities,—when no regard was paid to the friendly proposals made by us and the pundit Peishwa,—when they desisted from coming to Poonah agreeable to their promise, and a categorical answer was given to the deputies from Poonah,—the ministers of Poonah then consulted among themselves; and, having advised with the Nabob Nizam-ul-Dowlah, they considered, as enemies were appearing on both sides, and it would be difficult to cope with both, what was to be done. Peace must be made with one of them, and war must be carried on with the other. They wished, above all things, in their hearts to make peace with the English Government, and to unite with them to punish Hyder Naig; but these gentlemen had plainly refused to enter into any terms of reconciliation. It was, therefore, advisable to accommodate matters with Hyder Naig, although he had been long an enemy. What else could be done? Having nothing left for it, they were compelled to enter into union with Hyder."

Here is a declaration made to Mr. Hastings himself—never answered by him; for answered it could not be, because the thing was manifest, that all the desolation of the Carnatic by Hyder Ali—all these difficulties that he mentions—all this union that he states—was his own work, because he would not listen to any reasonable terms of peace. See, afterwards, what sort of peace he made. I could make from this paper, that they had the folly and madness to produce to you, for other purposes, a clear refutation of everything. 16 JUNE 1794.

Origin of the war attributable to Mr. Hastings.

I am to tell you, that, when he values himself upon peace, he ought to value himself upon having caused the war. If you will look at it—and there is nothing that we can do to help you in such a detection that we will not do—you will find that he might have had a better treaty than that which at last he acceded to, at any time; that the treaty he made was full of disadvantage and dishonour; full of disadvantage, as we gave up every ally we had, and sacrificed them to the resentment of the enemy,—and sacrificed they were; that Madaji Scindia gained by it an empire; that he exterminated all the little and many gallant nations that stood between us and the Mahratta ambition, that stood in the middle of India, from [the Nerbudda?] quite up to the mountains that divide India from Tartary. Almost all these brave nations he has exterminated, or brought under the most cruel subjection. The peace he made with Mr. Hastings was for the very purpose of doing this; which Mr. Hastings enabled him and gave him the means of doing. And this has been done, from one end of India to the other.

Dishonourable character of the Mahratta peace.

See what he did with other allies. The treaty of Poorunder, which Colonel Upton made, and which he broke—flagitiously broke; and which he was condemned justly by the House of Commons for having broken,—this treaty of Poorunder gave us,—when God knows we little merited any favour whatever from the people,—it gave us 112,000*l.*, twelve lacs, to bear the expenses of the war, and gave us a country of thirty lacs, the country of Baraitch; and it gave us Salsette, and other small islands convenient for us upon that coast; a great, useful and momentous, accession of territory and of revenue. For its value, it makes at twelve years 420,000*l.*, which we got by that treaty; and we got it with honour, for not one of our allies was sacrificed in it. For Ragonaut, whom they considered as the great cause of the war, they agreed to make an establishment of a thousand

Advantageous terms of the treaty of Poorunder.

16 JUNE 1794. horse, [to be maintained at their expense],* and for his other expenses, three lacs of rupees *per annum,* payable monthly: and they chose a place for his residence, out of which he was not to remove, to disturb them. They stipulated pardon for all his adherents except four; and all they desired was, that we should not assist him. It goes no further: no money is to be given to him. But Mr. Hastings surrendered that country of three lacs. He stipulated nothing for the expenses of the war. He stipulated no indemnity; not one word for any of the persons whom he had seduced into rebellion for Ragonaut Row. He gave them all up to the justice of the country, without a stroke of a pen in their favour, to be banished, confiscated and undone. And as to Ragonaut Row, instead of getting him this honourable establishment, which he was bound to do, this unfortunate man was ordered to go into Madaji Scindia's country, or otherwise he was not to receive a shilling for his maintenance. Then I will ask your Lordships, whether any man, willing to serve his country, could by any means whatever have broke the treaty of Poorunder, and value himself upon that? The House of Commons has resolved upon it. They state that his own Council had remonstrated with him upon it, and stated the mischiefs that would happen; that Sir Eyre Coote, writing from Madras, states he thought it would bring down Hyder Ali upon him, infallibly, who was resolutely determined upon the utter destruction and dishonour of his country. He broke the treaty, which was of much advantage, to make one afterwards, with all the intermediate losses and vexations, of a dishonourable kind; losing every advantage almost, except two or three islands that we had by the treaty of Poorunder. And this, my Lords, is a set-off to all the crimes, prevarications, swindlings, that we allege against him—ill faith abroad, scandalous peace, dishonourable, ruinous, mischievous, expensive, scandalous, war;—all owing to this man, and all brought up here to your Lordships as his merit, in order to revile and to spit upon the Legislature, because you are resolved to publish to all India that you will not countenance offensive wars! And [you feel this]* so strongly as to make the first Act of this kind that was ever made, to limit the discretionary power of making war, solely, upon no other reason under heaven,

Warnings addressed to Mr. Hastings on his contemplated breach of faith.

* Revised copy.

than the abuse that that man at your bar has made of it; and for which abuse now he presumes to take merit to himself. I will read it to your Lordships:— 16 June 1794.

["And, whereas, to pursue schemes of conquest and extension of dominion in India are measures repugnant to the wish, the honour and policy, of this nation; be it therefore enacted by the authority aforesaid, that it shall not be lawful for the Governor General and Council of Fort William aforesaid, without the express command and authority of the said court of Directors, or of the secret committee of the said court of Directors, in any case, except when hostilities have actually been commenced, or preparations actually made for the commencement of hostilities, against the British nation in India, or against some of the princes or states dependent thereon, or whose territories the said united Company shall be at such time engaged, by any subsisting treaty, to defend or guarantee, either to declare war or commence hostilities, or enter into any treaty for making war, against any of the country princes or states in India, or any treaty for guaranteeing the possessions of any country princes or states," etc.]*

Restrictive Act of 24 Geo. III.

It is the first Act that ever was made in this nation, the first statute that ever was made by the Government of any nation, upon the subject, founded upon no other reason in the world; because we know, and ought to know, who made that bill, which your Lordships afterwards ratified. Then these resolutions we made against the violent, intemperate, unjust and perfidious, conduct of this man at your Lordships' bar, that is produced before your Lordships as merit! And, to show how necessary it was, here is a part of his own correspondence—the last thing I shall beg your Lordships to read, and upon which I shall make little or no comment; begging you to hear and know how well British faith was kept, and that it was the violation of British faith that prevented his having the most advantageous peace at an early period, and that would have prevented all the calamities of war.

Letter addressed to Mr. Hastings by Beneram Pundit.

It is written from the minister of the Raja of Berar, a man called Beneram Pundit, who was minister of the Raja of Berar, with whom Mr. Hastings was at the time treating for a peace, and he tells him why he might have had peace at that time, and why he had it not; that the cause of it was his own ridiculous and even buffoon perfidiousness, which exposed him to the ridicule of all the princes of India, and with him the whole British nation. It is in page 2178:—

"But, afterwards, reflecting that it was not advisable for me to be in such haste before I had understood all the contents of the papers, I

* Act of 24 Geo. III. cap. 25, sec. 34.

16 June 1794. opened them in the presence of the Maha-Rajah, when all the kharetas, letters, copies, and treaties were perused with the greatest attention and care.

"First, they convinced us of your great truth and sincerity, and that you never, from the beginning to this time, were inclined to the present disputes and hostilities; and, next, that you have not included in the articles of the treaty any of your wishes or inclinations; and, in short, the garden of the treaty appeared to us in all its parts green and flourishing. But though the fruits of it were excellent, yet they appeared different from those of Colonel Upton's treaty, the particulars of which I have frequently written to you,—and upon tasting them proved to be bitter, and very different, when compared to the former articles. How can any of the old and established obligations be omitted, and new matters agreed to, which it is plain that they will produce and damage? Some points which you have mentioned, under the plea of the faith and observance of treaties, are of such a nature that the Poonah ministers can never assent to them. In all engagements and important transactions, in which the words "but," and "although," and "besides," and "whereas," and "why," and other such words of doubt are introduced, it gives an opening to disputes and misunderstanding. A treaty is meant for the entire removal of all differences, not for the increase of them. My departure for Poonah has therefore been delayed."

My Lords, consider to what ironies and insults this nation was exposed, and how necessary it was for us to originate that bill which your Lordships passed into an Act of Parliament, with His Majesty's assent. The words "but," "although," "besides," "whereas," and "why," and such like, are introduced to give an opening, and so on. Then he desires him to send another treaty, fit for him to sign:—

"I have, therefore, kept the treaty with the greatest care and caution in my possession, and have taken a copy of it. I have added to each article another which appeared to me proper and advisable, and without any loss or disadvantage to the English, or anything more in favour of the Pundit Purdaun than was contained in the former treaties. This I have sent to you, and hope that you will prepare and send a treaty conformable to that, without any "besides," or "if," or "why," or "but," and "whereas;" that as soon as it arrives I may depart for Poonah, and having united with me Row Mahadajee Scindia, and having brought over the Nabob Nizam-ul-Dowlah to this business, I may settle and adjust all matters which are in this bad situation. As soon as I have received my dismission from thence, I would set off for Calcutta, and represent to you everything which for a long while I have had on my mind, and by this transaction erect to the view of all the world the standard of the greatness and goodness of the English and of my masters, and extinguish the flames of war with the waters of friendship. The compassing all these advantages and happy prospects depends entirely upon your will and consent, and the power of bringing them to an issue is in your hands alone."

My Lords, you see the necessity of the Act of Parliament that was made; that the want of faith of Mr. Hastings not only had united all India against us, but had hindered us from

making, for a long time, any peace at all; and we were exposed to the irony, scorn, derision and insult, of the whole people of that vast continent. 16 June 1794.

My Lords, there you have our charges. You have the set-off of merit. You have our observations on them. You see the condition in which Mr. Hastings received Benares. You see the condition in which Mr. Hastings received the country of the Rohillas. You see the condition in which he received the country of Oude. You see the condition in which he received the country of Bengal. You see the condition in which he received the government which we have abroad. You see the happiness and prosperity that was at home. You see all the beauty and glory end in a jungle for wild beasts. Flourishing families and nations—you see them reduced to a condition to implore that pity which the poorest man and the meanest situation might very well call for! Recapitulation.

My Lords, you see abroad scorn, contempt and derision, war stirred up and dishonourable treaties of peace made, from the total prostitution of British faith; and you see that nothing less than having an Act of Parliament, that is the first of the kind, could prevent it. Then take the delinquencies we have proved, from the highest degree of tyranny to the lowest degree of sharping and cheating, and consider whether the House of Commons could be justified for one moment without bringing these matters, which have baffled legislation at various times, to try at last what judgment would do. Judgment is what gives force, effect and vigour, to laws. Laws without judgment are contemptible and ridiculous. We had better have no laws than laws not enforced by judgments and suitable penalties upon delinquents. Look to all the sentences passed before. Look to the sentence passed upon Lord Bacon; look to the sentence passed upon Sir Giles M[ompesson]; and, coming down to later times, look at the sentence passed upon Lord Macclesfield; and then compare the sentences which your ancestors have given with the delinquencies which were then before them; and you have a measure to take with regard to this delinquent, formed upon the principles of your ancestors, formed upon the principles of delinquency, formed upon that rule which ought to give judgment to all courts in like cases; lessening it for a lesser offence, and aggravating it for a greater, until the measure of justice is completely full.

16 JUNE 1794.

My Lords, I have done. The part of the Commons is concluded. With a trembling solicitude, we consign this product of our long labours to your charge. Take it—take it. It is a sacred trust. I do assure you, never was a cause of such magnitude submitted before to any human tribunal.

Peroration

My Lords, at this great close, in the name of the Commons, surrounded by them, I attest the retiring—I attest the advancing—generations, between which, as a link in the great chain of eternal order, we stand, that the Commons have shrunk from no labour, have not feared any odium whatsoever, in the long conflict which they have carried on with the crimes, with the vices, with the exorbitant wealth, with the enormous and overpowering influence, of Eastern corruption. This battle, my Lords, we have carried on for twenty-two years, the conflict of which has been fought at your Lordships' bar for seven years.

My Lords, two and twenty years is a great space in the scale of the life of man. It is no inconsiderable space in the history of a great nation. A business which has so long occupied the councils and the tribunals of Great Britain cannot possibly be huddled over in the course of vulgar, trite and transitory, events. Nothing but some of those great revolutions that break the traditionary chain of human memory, and alter the very face of nature itself, can possibly obscure it. My Lords, we are all elevated to a degree of importance by it. The meanest of us will, by means of this, more or less become the concern of posterity; if we are yet to hope for such a thing, in this state of the world, as a retrospective, recording, civilised, posterity. But this is in the hands of the great Disposer of events. It is not ours to to settle how it shall be.

My Lords, your House yet stands. It stands as a great edifice; but let me say, that it stands in the midst of ruins —in the midst of the ruins that have been made by the greatest moral earthquake that ever has convulsed and shattered this globe of ours. My Lord, it has pleased Providence to place us in such a state that we appear every moment to be upon the edge of some great mutations. There is one thing, and one thing only, which defies all mutation; that is, the thing which existed before the world and will survive this fabric of the world itself—I mean, justice!—that justice which, emanating from the Divinity, has a place in the breast of every one of us; given us for our

guide with regard to ourselves and others; and which will stand, when the globe is burned to ashes, before the great Judge, when He comes to call upon us for the tenor of a well spent life, and to show that we have acted the last part with honour. That is in our power. 16 June 1794.

My Lords, the Commons will take every fate with your Lordships. There is nothing sinister which can happen to you in which we shall not be involved. But, if it should so happen that we should be subject to some of those frightful changes which we have seen, if it should happen that your Lordships, stripped of all the decorous distinctions of human society, should, by hands at once base and cruel, be led to those scaffolds and machines for murder upon which the greatest kings and the most glorious queens have shed their blood, amidst the prelates, amidst the nobles, amidst the magistrates, who have supported their thrones, may you in these moments feel that consolation which I am persuaded they felt, in the critical moments of their dreadful agony!

My Lords, there is always some consolation, and a great consolation, for oppressed virtue and oppressed, fallen, dignity. It often happens that the very oppressors and persecutors themselves are found to bear great testimony in its favour. I do not like to go a great way into antiquity. I know very well that length of time operates so as to produce something of the fabulous, that lessens, and that weakens the interest, and weakens the application of examples. I wish to come nearer to the present time. Your Lordships know and have heard—and who has not known and heard?—of the parliament of Paris. The parliament of Paris had an origin very similar to that of the great Court before which I stand. The parliament of Paris continued to have a great resemblance to it in its constitution, even to its fall. The parliament of Paris was! It is all over, my Lords. It is passed like a dream. It fell before the sword of the Comte de Mirabeau. And yet I will say that that man, in the moment of his inflicting the death wound of that parliament, produced at once the shortest and the grandest funeral oration that ever was or could be made upon the departure of a great magistracy. Though he has smarted himself under it—as every one knows who knows his history, and he was elevated to be a great character in history—yet, when pronouncing the death sentence upon it and inflicting the mortal wound, he declared his motives for doing it were merely political, and that their hands were

16 JUNE 1794. as pure as the justice they administered. A great and glorious conclusion of a great and glorious body! And never was a sentence pronounced upon a body more noble. They were persons, in nobility of rank, in amplitude of fortune, in weight of authority, in depth of learning, inferior to few of those that hear me. It is but the other day that they submitted their necks to the axe—but not their honour. Their enemies, the persons who sentenced them, were lawyers full of subtlety; they were enemies full of malice; yet, lawyers full of subtlety and enemies full of malice as they were, they did not dare to reproach them with having supported the great and powerful, and oppressed the weak and feeble, in any of their judgments, or that they had perverted justice, in any one point whatever, for favour, for connection, or for cabal.

My Lords, if you must fall, may you so fall! But, if you stand—and stand I trust you will, together with the fortune of this ancient monarchy, together with the ancient laws and liberties of this great and illustrious kingdom—may you stand as unimpeached in honour as in power! May you stand, not as a substitute for virtue, but as an ornament of virtue—as a security for virtue! May you stand long, and long stand the terror of tyrants! May you stand the refuge of afflicted nations! May you stand a sacred temple, for the perpetual residence of an inviolable justice!

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